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MANAGEMENT OF THE U.S. CUSTOMS SERVICE

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

FEBRUARY 25 AND 26, 1987

(Part 2 of 2)

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MANAGEMENT OF THE U.S. CUSTOMS SERVICE

WEDNESDAY, FEBRUARY 25, 1987

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The committee met, pursuant to notice, at 10:06 a.m. in room SD-215, Dirksen Senate Office Building, the Honorable Lloyd Bensten (chairman) presiding.

Present: Senators Bensten, Matsunaga, Baucus, Daschle, Danforth, Chafee, and Durenberger.

[The press release announcing the hearing and the opening statement of Senator Bentsen follows:]

[Press Release #H-13, January 27, 1987]

FINANCE COMMITTEE CHAIRMAN BENTSEN ANNOUNCES HEARINGS ON MANAGEMENT OF THE U.S. CUSTOMS SERVICE

Washington, D.C.—Senator Lloyd Bentsen (D., Texas), Chairman, announced Tuesday that the Senate Finance Committee will hold three days of hearings on the Reagan Administration's request to cut the budget of the U.S. Customs Service.

"The Administration is embarked on a long-term program of cutting back the level of customs services and inspection of imported goods at our ports. I am concerned that the budget proposals and management changes initiated by the Administration, most of which fall on commercial operations, are weakening the agency's ability to do the commercial side of its job effectively," he said.

"We may want to consider whether customs management reform legislation is needed."

The hearings will begin in Brownsville, Texas and Laredo, Texas on Wednesday, February 11, 1987. The hearing in Brownsville will begin at 9:00 a.m. at Texas Southmost College, Eidman I Lecture Hall. The hearing in Laredo will begin at 2:00 p.m. at Laredo State University, Institute of International Trade, University Hall Rooms 141 and 142. The focus of the hearings at both locations in Texas will be on the impediments to commerce over the U.S.-Mexico border causes by the Administration's proposed cuts of the Customs Service's budget.

Hearings will also be held in Washington, D.C., on Wednesday, February 25, 1987, and Thursday, February 26, 1987. The hearings will begin each day at 9:30 a.m. in Room SD-215 of the Dirksen Senate Office Building. Issues to be covered at these hearings include the Administration's proposed cutbacks in staffing and level of services in commercial operations; consolidation and centralization of operations; the Customs Service's increasing employment of an automated system for determining which shipments of imports to inspect; and other matters relating to appropriations and operations of the Customs Service.

STATEMENT OF THE HONORABLE LLOYD BENTSEN
AT THE SENATE FINANCE COMMITTEE HEARING ON
MANAGEMENT OF THE U.S. CUSTOMS SERVICE
WASHINGTON, D.C.
THURSDAY, FEBRUARY 25, 1987

The hearings that we are holding today concern the Administration's proposal to cut the U.S. Customs Service.

Two weeks ago I visited the border between the United States and Mexico to learn how those who live in that area feel about the job the Customs Service is doing.

These are people whose lives are touched by the Customs Service everyday. They cross the border daily -- for their jobs, for education, for commerce. At the same time, they depend on the Customs Service to protect their communities and their families from illegal drugs coming over the border and the devastating effects that can accompany drug usage.

What I heard in talking to these people was great concern. Concern that traffic congestion along the border is creating a bottleneck to the flow of commerce between our two countries. Concern that the human resources Customs is devoting to border inspections are insufficient, either to facilitate commercial traffic or to prevent illegal traffic. I left with a better understanding of their problems and a renewed belief that economizing on the Customs Service is false economy.

Since taking office, this Administration has consistently proposed to reduce the manpower of the Customs Service. We in Congress have refused to agree to these cutbacks and have acted to increase Customs' manpower every year since 1984, recognizing the importance of the Customs Service and the fact that its workload has nearly doubled since 1980.

The Administration has come forward again this year with a proposal to reduce the number of Customs employees. For fiscal year 1988 the Administration would cutback manpower by more than 13 percent from the levels Congress authorized for fiscal year 1987.

These drastic cuts are supposedly justified by a process of streamlining and automating the procedures used by the Service. But can it really be true that machines can so rapidly and totally replace the skill and professional judgment of thousand of trained employees?

Automation of the Customs Service is good to the extent that it improves the Service's efficiency. But many of Customs' functions are <u>human</u> functions. For these, there is no substitute for people. My concern is that the dedicated men and women of the Customs Service -- the front-line troops in our war on drugs and customs enforcement -- are being ill-served by a drive to economize for its own sake.

TODAY WE WILL HEAR HOW OTHER REPRESENTATIVES OF THE BUSINESS COMMUNITY FEEL ABOUT THE JOB THAT THE CUSTOMS SERVICE IS DOING. WE WILL ALSO HEAR DIRECTLY FROM THE EMPLOYEES OF THE CUSTOMS SERVICE ON HOW THEY FEEL ABOUT THEIR ABILITY TO DO THEIR JOB.

OUR FIRST WITNESS IS THE REPRESENTATIVE OF THE CUSTOMS SERVICE EMPLOYEES, MR. ROBERT TOBIAS OF THE NATIONAL TREASURY EMPLOYEES UNION.

Senator MATSUNAGA. The Committee on Finance will come to order.

Today, we are honored to have two distinguished members of Congress testify before this committee on a hearing on management of the U.S. Customs Service; the Honorable Albert G. Bustamante, United States Congressman from the State of Texas; and the Honorable Ronald G. Coleman, United States Congressman from the State of Texas.

We certainly appreciate your presence, gentlemen. And, we will take it in the order as listed. Congressman Bustamante, will you proceed?

STATEMENT OF HON. ALBERT G. BUSTAMANTE, U.S. REPRESENTATIVE FROM THE STATE OF TEXAS

Congressman BUSTAMANTE. Thank you, Mr. Chairman.

Mr. Chairman, thank you for allowing me the opportunity to appear before you to offer these remarks on the Administration's Fiscal Year 1988 budget request for the U.S. Customs Service. As requested by the committee, I am submitting the full text of my statement for the record.

Senator MATSUNAGA. Without objection, it will be included in the record in full.

Congressman BUSTAMANTE. And, in the interest of time, I shall summarize my remarks for the benefit of the committee.

Mr. Chairman, I have the privilege of representing the 23rd Congressional District of Texas, which includes approximately 200 miles of the U.S.-Mexico border. There are three ports of entry with Customs operations in the District—Laredo, with two bridges; Eagle Pass, with one; and Del Rio, with a four-lane bridge to replace the present decrepit two-lane facility, set for completion next year. We are also affected by Customs' operations at the San Antonio International Airport.

Present Reagan has proposed a reduction of nearly 2,000 Customs officials for Fiscal Years 1987 and 1988. That amounts to a total reduction of roughly 13 percent. Last year, the President made a similar request. But Congress, in its wisdom, rejected that recommendation and authorized over 1,000 new positions for this important agency.

I hope Congress will respond as it has in the past, by rejecting this proposal, and authorizing more, not fewer, positions.

As a representative of a District that shares a common border with the Republic of Mexico, I am concerned about the potential adverse effects of these cuts in Customs personnel. Lengthy delays at border crossings threaten to damage border economies through decreased tourist rate and declining cross-border trade.

Yet, the problem extends far beyond border communities in the southwest of the United States. Last year, for example, Congress assigned the Customs Service a significant role in the battle against drugs, when it passed comprehensive drug legislation.

The President's budget proposals belie his tough rhetoric on the war against drugs and drug traffickers across the nation. They actually signal the call of retreat. I fully support efforts to tighten Customs' enforcement capabilities in drug interdiction. But, at the

same time, I am equally concerned that the shift in priorities in drug enforcement will impede Customs' performance in carrying out its primary mission—the enforcement of U.S. trade laws.

The United States Customs Service is the backbone in our efforts to enforce U.S. trade laws. Customs personnel interpret and enforce our trade laws on a daily basis. They are responsible for assessing the correct duty on imported articles, and for determining their admissibility. They also determine whether special trade programs such as quotas, countervailing duties, and antidumping statutes apply to imported articles.

Mr. Chairman, I know you have placed trade law reform on the top of your legislative agenda. I share that legislative priority, but any attempts to overhaul our trade policies are meaningless, unless we are prepared and committed to enforce them.

Thank you, very much.

Senator MATSUNAGA. Thank you, Congressman. And now, we shall hear from Congressman Coleman.

[The prepared written statement of the Honorable Albert G. Bustamante follows:]

STATEMENT OF THE HON. ALBERT G. BUSTAMANTE
BEFORE THE SENATE FINANCE COMMITTEE HEARING ON
MANAGEMENT OF THE U.S. CUSTOMS SERVICE
WEDNESDAY, FEBRUARY 25, 1986
10:00 A.M., ROOM 215 DIRKSEN

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, THANK YOU FOR ALLOWING ME THE OPPORTUNITY OF APPEARING BEFORE YOU TO OFFER THESE REMARKS ON THE ADMINISTRATION'S FISCAL YEAR 1988 BUDGET REQUEST FOR THE U.S. CUSTOMS SERVICE. I REPRESENT THE 23RD DISTRICT OF TEXAS, WHICH INCLUDES APPROXIMATELY 200 MILES ALONG THE U.S.-MEXICO BORDER. THERE ARE THREE PORTS OF ENTRY WITH CUSTOMS OPERATIONS IN THE DISTRICT--LAREDO, WITH TWO BRIDGES; EAGLE PASS, WITH ONE; AND DEL RIO, WITH A FOUR-LANE BRIDGE TO REPLACE THE PRESENT DECREPIT TWO-LANE FACILITY, SET FOR COMPLETION NEXT YEAR. WE ARE ALSO AFFECTED BY CUSTOMS' OPERATIONS AT THE SAN ANTONIO INTERNATIONAL AIRPORT.

I WILL HAVE MORE TO SAY ABOUT CUSTOMS' PRESENCE AT THOSE THREE PORTS, BUT WOULD FIRST LIKE TO DESCRIBE AN INCIDENT WHICH HAS MADE MY CONCERN MORE PERSONAL.

WE OFTEN FIELD COMPLAINTS FROM COMMERCIAL INTERESTS ON THE LENGTH OF LINES AT SOUTH TEXAS PORTS. OVER THE CHRISTMAS HOLIDAY, WITH THE RISE IN TRAFFIC VOLUME ATTRIBUTABLE TO INCREASED RETAIL SALES, THOSE LINES REACHED THREE HOURS AT BOTH DEL RIO AND LAREDO. THE NUMBER OF COMPLAINTS TO OUR OFFICES ROSE PROPORTIONATELY.

OUR REACTION IN SUCH CIRCUMSTANCES IS TO VISIT WITH THE PORT DIRECTOR, THE REGIONAL OFFICE AND THE WORK FORCE EFFECTIVENESS OFFICE HERE IN WASHINGTON IN AN EFFORT TO DOCUMENT THE BACK-UPS AND TO EXPLORE THE POSSIBLE ASSIGNMENT OF INTERMITTENT AND PART-TIME AGENTS AT PEAK HOURS. WE RECOGNIZE THAT CHRISTMAS AND THE SUMMER MONTHS WILL BRING AN INCREASE IN THE NUMBER OF INSPECTIONS. BUT THE INCONVENIENCE, HOWEVER PREDICTABLE AND DISRUPTIVE, IS SECOND-HAND. WE ARE GENERALLY NOT THE ONES WHO ARE INCONVENIENCED.

ON DECEMBER 12, IN BROWNSVILLE, IT BECAME FIRST-HAND. I HAD GONE TO HAVE DINNER WITH CONGRESSMAN SOLOMON ORTIZ IN MATAMOROS AND FOUND MYSELF WAITING AN HOUR AND A HALF TO CROSS. THIS SORT OF THING SPARKS YOUR INTEREST IN AN AGENCY'S BUDGET. WHAT IS MOST OBVIOUS IS THAT CUSTOMS HAS, AT THE LEAST, A PUBLIC RELATIONS PROBLEM ON ITS HANDS. IN BROWNSVILLE, AS IN THE PORTS IN MY DISTRICT, SECONDARY INSPECTION BOOTHS ARE SIMPLY NOT MANNED AT NEEDED LEVELS. IN LOOKING AHEAD TO THE VEGA AT ANY BRIDGE, WAITING PASSENGERS SEE THE IMMIGRATION & NATURALIZATION SERVICE PROCESSING PRIMARY INSPECTIONS THROUGH THEIR STATIONS. AT THE SAME TIME, THEY DO NOT SEE THE SECONDARY SLOTS OPERATING AT EVEN HALF THEIR CAPACITY.

WHILE FULLY SUPPORTIVE OF TIGHTENING CUSTOMS ENFORCEMENT CAPABILITIES IN DRUG INTERDICTION EFFORTS, I AM EQUALLY CONCERNED ABOUT THE TRADE-OFF BETWEEN INCREASED DRUG

INSPECTIONS AND THE FACILITATION AND ENFORCEMENT OF CARGO ENTRIES.

THE EXPANSION OF ENFORCEMENT RESPONSIBILITIES HAS CAUSED EFFICIENCY IN MERCHANDISE PROCESSING TO SUFFER.

TO COMBAT THE DRUG THREAT, TO REDUCE THE INCIDENCE OF COMMERCIAL FRAUD, TO HANDLE THE GROWING VOLUME OF CARGO ENTRIES AND TO ARREST THE FLOW OF HIGH TECHNOLOGY GOODS TO THE SOVIET BLOC REQUIRES ADEQUATE MANPOWER AND FISCAL RESOURCES. UNFORTUNATELY, THE U.S. CUSTOMS SERVICE HAS NEITHER, AND THIS ADMINISTRATION IS PROPOSING THAT THE AGENCY DO WITH EVEN LESS.

IN RECENT MEETINGS WITH MERCHANTS AND BROKERS ALONG THE BORDER, CUSTOMS SUGGESTED THAT COMMERCIAL TRAFFIC COULD FACILITATE INSPECTIONS BY USING THE SAME DRIVER AS FREQUENTLY AS POSSIBLE AND BY STACKING CARGO MORE CAREFULLY IN THE CONTAINERS. IN RETURN, CUSTOMS EXPLAINED THAT ITS NEW AUTOMATED CARGO SYSTEM (ACS) WOULD GREATLY SPEED UP THE CLASSIFICATION AND VALUATIONS WORK AT THE IMPORT LOTS. WHAT NEEDS TO BE EMPHASIZED IS THAT THE FORMER SUGGESTIONS, SENSIBLE AS THEY MAY BE, ARE SMALL-SCALE. SIMILARLY, USE OF THE COMPUTER WILL EVENTUALLY SAVE TIME NOW SPENT ON THUMBING THROUGH THE TARIFF SCHEDULE AND CROSS-REFERENCING THE QUOTA LISTS.

BUT THE POINT TO BE EMPHASIZED IS THAT INSPECTIONS THEMSELVES ARE LABOR-INTENSIVE. YOU HAVE TO HAVE THE BODIES; BETTER YET, YOU HAVE TO HAVE INSPECTORS TRAINED

FOR SPECIFIC MISSIONS. DRUG INTERDICTION AND COMMERCIAL INSPECTION OVERLAP, BUT THEY ARE ESSENTIALLY SEPARATE FUNCTIONS. OPERATION ALLIANCE, ADMIRABLE AS IT IS IN ADDRESSING A REAL AND THREATENING PROBLEM, SHOULD NOT PLOW AHEAD AT THE EXPENSE OF ROUTINE COMMERCIAL CARGO INSPECTION.

MY FIRST CONCERN IS OBVIOUSLY THE SOUTHWEST BORDER, AND MORE PARTICULARLY, CROSSINGS SUCH AS LAREDO, WHICH IS THE LARGEST LAND PORT IN THE COUNTRY. IT BEARS REPEATING THAT MEXICO IS THIS COUNTRY'S THIRD LARGEST TRADING PARTNER, AND THAT THE VALUE AND VOLUME OF ITS EXPORTS CONTINUES TO GROW. BUT MY CONCERN IS ALSO BROAD-BASED. WE KNOW THAT 927 POSITIONS ARE TARGETED FOR RECISSION IN FY 1987. IN ADDITION, THIS ADMINISTRATION HAS PROPOSED ANOTHER CUT OF MORE THAN 1,000 FULL-TIME PERMANENT POSITIONS IN FY 1988; THAT CORRESPONDS TO A REDUCTION OF ROUGHLY 13 PERCENT. WHEN WE UNDERSTAND THAT THE NUMBER OF POSITIONS WHICH HAVE BEEN ADDED TO CUSTOMS' OPERATIONS IN THE SOUTHWEST ARE LARGELY DEDICATED TO ENFORCEMENT, WE HAVE TO CONCLUDE THAT COMMERCIAL INSPECTIONS IN OUR AREA ARE GOING TO TAKE THE HARDEST HIT.

LAST JUNE, I RECEIVED SEVERAL COMPLAINTS FROM CUSTOMS BROKERS AND FREIGHT FORWARDERS IN MY DISTRICT THAT IMPORT SPECIALIST WERE TO BE REASSIGNED TO PERFORM DISTRICT INTELLIGENCE OFFICER (DIO) DUTIES AND CONCENTRATE ON NARCOTICS INVESTIGATIONS. THE SHIFTING EMPHASIS CREATED BY THE REASSIGNMENTS SEEMED IN DIRECT CONFLICT WITH

ASSURANCES WE RECEIVED FROM THE TREASURY DEPARTMENT THAT COMMERCIAL OPERATIONS ALONG THE SOUTHWEST BORDER WERE TO HAVE TOP PRIORITY. AT MY REQUEST, THE SUBCOMMITTEE ON COMMERCE, CONSUMER AND MONETARY AFFAIRS ASKED THE GENERAL ACCOUNTING OFFICE TO LOOK INTO THE PROBLEM. THE GAO FOUND THE DIO DUTIES AND TRAINING WERE COMPATIBLE WITH THE BACKGROUND AND THE TRAINING OF IMPORT SPECIALISTS. HOWEVER, GAO DID EXPRESS SEVERAL CONCERNS FOR THE SAFETY OF THE NEWLY ASSIGNED DIOs. SINCE ONE ASPECT OF THE DIO's JOB DESCRIPTION IS TO DEVELOP INFORMANTS, A DIO COULD EASILY WALK INTO A DANGEROUS SITUATION WHILE COLLECTING INFORMATION. THE GAO POINTED OUT THAT THEY ARE NOT TRAINED TO HANDLE SUCH SITUATIONS BECAUSE THEY ARE NOT TRAINED WITH FIREARMS OR IN SKILLS OF SELF DEFENSE. A WEEK OR SO AFTER THESE FINDINGS WERE REPORTED TO ME, I LEARNED TO MY SURPRISE THAT THE DIO PROGRAM WAS DROPPED. APPARENTLY, THE GAO INVESTIGATOR ASSIGNED TO INVESTIGATE THE SITUATION DISCCUSSED THE SAFETY ISSUES WITH THE CUSTOMS COMMISSIONER FOR THE SOUTHWEST REGION. AS A RESULT, THE DIO PROGRAM WAS ELIMINATED, BUT ONLY ONE OF THE TWO IMPORT SPECIALISTS WAS REASSIGNED TO HIS FORMER DUTY.

WITH THE EMPHASIS CURRENTLY ON ENFORCEMENT ACTIVITIES, CUSTOMS PRIORITIES AND RESOURCES ARE BEING SHIFTED AWAY FROM EXPEDITIOUS ENTRY PROCESSING. FOR THOSE OF US WHO REPRESENT CONGRESSIONAL DISTRICTS ALONG THE U.S.-MEXICO BORDER, WE ARE FEELING THE HEAT CAUSED BY THE SHIFT IN PRIORITIES. CLEARANCE DELAYS ARE NOT A NEW PHENOMENON, BUT THE PROBLEM HAS BEEN EXACERBATED. THE INCREASING NUMBER

OF SECONDARY INSPECTIONS ON NON-COMMERCIAL TRAFFIC IS BEGINNING TO DISCOURAGE TOURIST TRADE, AND LOCAL BUSINESSES ON BOTH SIDES OF THE BORDER ARE HEARING THE COMPLAINTS OF THEIR CUSTOMERS. UNLESS ADJUSTMENTS ARE MADE, PRESSURES ON BORDER CONGRESSMEN TO ALLEVIATE THE DELAYS CAUSED BY INCREASED LAW ENFORCEMENT ACTIVITIES WILL INTENSIFY.

THE QUICK, EFFICIENT FLOW OF CROSS-BORDER TRADE WITH MEXICO IS IMPORTANT TO THE LOCAL ECONOMIES OF U.S. BORDER TOWNS. THE MORE TRIPS CARS AND TRUCKS CAN TAKE ACROSS THE RIO GRANDE, THE MORE OPPORTUNITIES EXIST FOR EXPANDING RETAIL SALES. OURS IS A SERVICE-BASED ECONOMY. THE BORDER TOWNS OF LAREDO, DEL RIO AND EAGLE PASS DEPEND ON TWO-WAY TRADE WITH MEXICAN NATIONALS, WHO SPEND TWO-THIRDS OF THEIR DISPOSABLE INCOME ON THE U.S. SIDE OF THE BORDER. AS YOU KNOW, MR. CHAIRMAN, THE EFFICIENCY OF THE U.S. CUSTOMS SERVICE HAS A DIRECT IMPACT ON THE LOCAL ECONOMY OF THESE BORDER COMMUNITIES.

I THINK IT IS FAIR TO SAY, MR. CHAIRMAN, THAT THE U.S. CUSTOMS SERVICE IS FACING AN OPERATIONAL CRISIS. CONGRESS HAS RECOGNIZED THE PROBLEM, BUT THIS ADMINISTRATION HAS DECIDED FOR REASONS UNKNOWN ME TO IGNORE IT. THEREFORE, CONGRESS MUST UNDERTAKE THE RESPONSIBILITY OF DECIDING WHAT FUNCTIONS DO WE WANT THIS IMPORTANT AGENCY TO FULFILL AND TO PERFORM WELL.

FOR TWO CENTURIES, THE BASIC MISSIONS OF CUSTOMS HAVE

BEEN THE REGULATION OF COLLECTIONS AND DUTIES ON GOODS ENTERING THE U.S., THE PROCESSING OF THOSE ENTRIES AND THE ENFORCEMENT OF TRADE LAWS GOVERNING THE THEIR ADMISSION. THE U.S. CUSTOMS SERVICE IS A REVENUE RAISER, AND PLAYS AN IMPORTANT ROLE IN FINANCING THE OPERATIONS OF THIS GOVERNMENT. FOR EVERY DOLLAR APPROPRIATED TO THE AGENCY, MORE THAN TWENTY-ONE DOLLARS IS RETURNED TO THE FEDERAL TREASURY -- NOT A BAD RETURN ON INVESTMENT. BUT BECAUSE CUSTOMS HAS BEEN REQUIRED TO SPREAD ITS RESOURCES OVER VARIOUS PROGRAMS AT REDUCED MANPOWER LEVELS, LOWER PRIORITY HAS BEEN ASSIGNED TO ITS PRIMARY PURPOSES.

ONE BORDER PORT IN OUR DISTRICT, AT LAKE AMISTAD, HAS GONE WITHOUT CUSTOMS PERSONNEL SINCE EARLY 1985, FOLLOWING THE MURDER OF DRUG ENFORCEMENT ADMINISTRATION (DEA) AGENT ENRIQUE CAMARENA SALAZAR. WE HAVE REPEATEDLY QUESTIONED CUSTOMS AS TO THE RATIONALE FOR NOT STAFFING THE PORT. FIGURES SHOW THAT THE INCREASE IN COMMERCIAL ACTIVITY--MAINLY FROM MAQUILADORAS LOCATED DIRECTLY ACROSS THE RIO GRANDE--HAVE INCREASED RAPIDLY IN RECENT YEARS. CATTLE IMPORTERS HAVE NOTED THAT HERDS UNDERGO SHRINKAGE IN HAVING TO TRAVEL AN ADDITIONAL 20 MILES TO CROSS AT DEL RIO AND THEN WAIT IN AN UNDERSTAFFED IMPORT LOT. FURTHER, THE REGIONAL COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE (INS) HAS REPEATEDLY COME TO US ASKING FOR ASSISTANCE IN PREVAILING ON CUSTOMS TO ASSIGN JUST TWO COMMERCIAL INSPECTORS AT THE DAM. BECAUSE OF THEIR INCAPACITY FOR SECONDARY INSPECTIONS, INS MUST INFORM TRUCKERS OF THEIR NEED TO LOOP BACK AROUND TO THE BRIDGE IN DEL RIO, WHICH IS UNDER

CONSTRUCTION.

WE ARE AWARE OF THE SERVICE'S NEED TO KEEP UP WITH CHANGES AT HIGHER VOLUME PORTS OF ENTRY, AND AT THOSE WHERE DRUG INTERDICTION, AS REQUIRED BY OPERATION ALLIANCE, HAS BECOME A PRIMARY GOAL. I AM AT A LOSS TO UNDERSTAND WHY CUSTOMS CANNOT STAFF THIS CROSSING WHEN DEA HAS ASSIGNED AN AGENT TO THE LAKE ITSELF, AND WHEN ALL THE DATA SUGGEST THAT THERE WOULD BE A GREATER VOLUME OF TRAFFIC NOW THAN BEFORE THE AGENCY WITHDREW.

I REALIZE THAT CUSTOMS -- LIKE MANY OTHER AGENCIES -- MUST OPERATE WITHIN TIGHT BUDGETARY LIMITATIONS. AT THE SAME TIME, IT BEHOOVES ALL OF USE TO RECOGNIZE THE DAMAGING EFFECTS OF INSUFFICIENT STAFFING THAT ARE MANIFESTED EVERY DAY AT PORTS ACROSS THE NATION. DUE TO THE PRESSURES OF A STAGGERING WORKLOAD, CUSTOMS PERSONNEL ARE NO LONGER AS PATIENT IN RESPONDING TO INQUIRIES OR AS UNDERSTANDING OF AN IMPORTER'S PROBLEM AS THEY WERE A DECADE OR SO AGO.

PRESSURES OF TIME, SHIFTS IN AGENCY PRIORITIES, AND THE DIVERSION OF RESOURCES FROM ENTRY PROCESSING TO LAW ENFORCEMENT HAVE ELIMINATED THE PERSONALIZED SERVICE THAT CUSTOMS HAS TRADITIONALLY PROVIDED. BECAUSE CUSTOMS HAS ALL BUT FORGOTTEN THE LAST WORD IN THE AGENCY'S TITLE -- 'SERVICE' -- SHIPPERS' COSTS INCREASE. SO DO TENSIONS BETWEEN CUSTOMS AND THE EXPORT/IMPORT COMMUNITY.

I HAVE RECEIVED ANECDOTAL EVIDENCE FROM CUSTOMS BROKERS AND FROM CUSTOMS LINE PERSONNEL THAT INSPECTORS AND IMPORT SPECIALISTS COMING THROUGH THE RANKS ARE LESS KNOWLEDGEABLE ABOUT THEIR JOBS THAN THEIR PREDECESSORS. THIS PROBLEM EXISTS NOT BECAUSE THE CALIBRE OF TODAY'S CUSTOMS INSPECTORS HAS DECLINED. TO THE CONTRARY, THEY ARE BETTER EDUCATED AND BETTER EQUIPPED TO HANDLE THE NEW CATEGORIES OF PRODUCTS THEY SEE MOVING IN INTERNATIONAL COMMERCE. THE PROBLEM LIES NOT WITH THE LINE PERSONNEL BUT WITH THE MANAGEMENT POLICIES OF THE AGENCY ITSELF.

ENTRY CLEARANCE DELAYS AND CLASSIFICATION ERRORS HAVE INCREASED. I BELIEVE THESE PROBLEMS ARE LARGELY ATTRIBUTABLE TO THE FACT THAT INSPECTORS AND IMPORT SPECIALISTS HAVE LESS TIME TO BECOME FAMILIAR WITH THEIR ASSIGNED PRODUCT LINES AND TO MAINTAIN CLOSE CONTACT WITH PEOPLE IN THE IMPRT - EXPORT BUSINESS. AUTOMATION WHICH WAS DESIGNED TO STREAMLINE MERCHANDISE PROCESSING HAS TENDED TO AGGRAVATE THE PROBLEMS. IN FACT, INSPECTION AND IMPORT-SPECIALIST PERSONNEL SPEND MORE TIME PERFORMING CLERICAL DUTIES -- THAT IS, INPUTTING DATA INTO THE SYSTEM -- THAN THEY DO IN CONDUCTING PHYSICAL INSPECTIONS.

MR. CHAIRMAN, I KNOW YOU HAVE PLACED TRADE LAW REFORM ON THE TOP OF YOUR LEGISLATIVE AGENDA. I SHARE THAT PRIORITY, BUT ANY ATTEMPTS TO OVERHAUL OUR TRADE LAWS WILL BE MEANINGLESS UNLESS WE ARE PREPARED AND COMMITTED TO ENFORCE THEM. CUSTOMS IS THE BACKBONE BEHIND OUR

ACCOUNTABLE FOR INTERPRETING AND ENFORCING OUR LAWS ON A DAILY BASIS. CUSTOMS PERSONNEL ARE RESPONSIBLE FOR ASSESSING THE CORRECT DUTY ON IMPORTED ARTICLES AND FOR DETERMINING THEIR ADMISSIBILITY. THEY ALSO DETERMINE WHETHER SPECIAL TRADE PROGRAMS SUCH AS QUOTAS, COUNTERVAILING DUTIES, AND ANTIDUMPING STATUTES APPLY TO THE IMPORTED ARTICLES.

IF WE ARE SERIOUS IN OUR ATTEMPTS TO ADDRESS THE TRADE PROBLEM ENGULFING THIS COUNTRY, THEN CONGRESS WILL REJECT THE PRESIDENT'S RECOMMENDATIONS TO ELIMINATE THE 2,000 POSITIONS.

THANK YOU, MR. CHAIRMAN, FOR THE OPPORUTNITY TO APPEAR BEFORE THIS COMMITTEE.

STATEMENT OF HON. RONALD D. COLEMAN, U.S. REPRESENTATIVE FROM THE STATE OF TEXAS

Congressman COLEMAN. Thank you, Mr. Chairman.

I appreciate the opportunity also to testify, and I have submitted for the record my entire testimony. I would only summarize, Mr. Chairman, I am a member of the House Appropriations Committee and the subcommittee on Treasury, Postal Service, and General Government. I am completely convinced that the Customs Service has, perhaps, the broadest job description of any agency in the Federal Government.

In addition to administering and enforcing the Tariff Act of 1930, the Customs Service is responsible for enforcing statutes to protect domestic agriculture, business, and public health. It is charged with enforcing motor vehicle regulations, such as the Motor Carrier Safety Act of 1984, and radiation and radioactive material standards. Not the least important, the Customs Service is charged with the primary responsibility of enforcing our drug enforcement statutes, right along the border—something that I am convinced that Congress is strongly committed to doing.

Given this broad array of duties as defined in the Custom Service's mission, we are once again faced with a devastating budget request from this Administration. Unfortunately, the Commissioner of Customs, Commissioner Von Raab, must come up here to the Hill and defend a budget of which he must say, "we are going to do more with less". Mr. Chairman, I do not believe that is feasible. I want to review the Administration's record, for the record of this committee, on their past budget requests, since I have, served in Congress.

For Fiscal Year 1984, the Administration requested a cut of 1,775 positions below the Fiscal Year 1983 levels. The Congress approved a cut of 200 positions in the final analysis.

For Fiscal Year 1985, the Administration requested a cut of 923 additional positions. The Congress, that year, froze the number of personnel at a total of 13,418 positions.

For Fiscal Year 1986, the Administration requested a cut of 800 positions. The Congress rejected that cut, and instead added 623 positions over the Fiscal Year 1985 amount, which brought us up to a level of 14,041 Customs Service personnel.

For Fiscal Year 1987, the Administration proposed a cut of 1,547 positions by sustaining the Gramm-Rudman cut of 700 positions and cutting an additional 800. The Congress added back the funds that were cut as a result of the Gramm-Rudman requirements, and we rejected the Fiscal Year 1987 cut requested by the Administration. Instead, we added 850 positions above the fiscal year 1986 appropriation, bringing us to a total of 14,891 positions. An additional 150 positions were added in the omnibus drug bill.

The Administration's fiscal year 1988 budget request has proposed a rescission at the outset of $39 million, and the absorption of $21.6 million in pay and retirement costs, which would result in a cut, once again, of 1,485 personnel in Fiscal Year 1987.

For Fiscal Year 1988, the Administration proposes to cut an additional 513 positions. This would result in a total of about 13,039 av-

erage positions in the Customs Service. In other words, we are backing up, Mr. Chairman, with this request.

Between 1979 and 1986, the level of Customs Service personnel has remained constant at approximately 14,000 full-time employees. The number of import specialists has fallen by 309 positions. The number of inspectors has remained constant at approximately 4,300 positions.

Of course, over this same period of time, from 1979 through 1986, demand has increased, as we all know. Those of us that represent districts as I do, along the U.S.-Mexico border, or those who represent areas where import requirements are high with travelers, such as in your state, are aware of this increase in demand.

I would suggest that the number of imports processed by the Customs Service, through their own statistics, have increased by some 56 percent. The Administration's own budget assumes that the number of carriers of foreign persons and merchandise entering the U.S. will increase by at least 5 percent in Fiscal Year 1988. And the number of foreign persons entering and requiring some attention will increase by 2 percent. Congress appropriated funds to provide for 192 additional import specialists and 344 inspector positions for Fiscal Year 1987. Yet, the Administration wants to eliminate these positions.

At the same time, the Administration claims to make a commitment to the war on drugs. The President and the First Lady have appeared on national television; and the Congress last year, committed vast resources to combat this scourge on society. Yet, with this budget, I submit to you that this Administration is seeking to undo, once again, the work of Congress.

The President's rescission will result, as I pointed out before, in a cut of 1,485 Customs personnel. At current levels, the Customs Service inspects two out of every 100 containers entering our nation. Additional cuts in manpower, it seems to me, will only exacerbate this vast leakage which occurs at any case.

If the President's budget is approved, the total number of Customs personnel would be below the 14,000 average that we have had over the last seven years. Furthermore, it means the Customs Service would violate a provision contained in the Fiscal Year 1987 continuing resolution, Public Law 99-591, which provides that the Customs Service shall maintain an average of 14,891 FTE's, or full-time-equivalent positions.

This really presents another problem. In the past, the Administration has attempted to hire less personnel than those for which Congress has provided funds. Through the Office of Management and Budget, this Administration has cited lack of authorization, although in the years when there has not been an authorization bill per se, legal authorization was carried in the appropriation bill.

OMB has attempted to use backdoor methods to prohibit increases, in my view, by absorbing increased costs, such as the pay hikes. This year, OMB is asking that Customs absorb the cost of the Federal Employees Retirement System and the three percent pay increase, for a total of $21.6 million, which will result, as I said before, in a cut of about 600 personnel.

It is interesting to note that Customs is one of the few agencies under the Treasury Department being forced to absorb those cuts.

The IRS, the most labor intensive agency in the Treasury Department, is seeking a supplemental appropriation. But then OMB and the Administration learned what happened, I think some years ago, when you cut the IRS.

Faced with the intransigence of the Administration to accept Congressional policy with regards to the Customs Service, I believe that the amendment that I offered to the fiscal year 1987 continuing resolution was helpful. It provided that the Customs Service shall hire and maintain an average of 14,891 full-time-equivalent positions. I think that many of us in Congress would have to plead guilty to micro-managing that agency. I really believe we in Congress had no other choice.

The Customs Service has run an average annual vacancy rate of approximately 400 positions. And I think many people that I represent and many other Members of Congress, in the House and the Senate, would understand how much we could use those various positions, if we could just have them filled. I now learn that OMB is still resisting and has placed apportionment controls on the Customs Service quarterly payments to prevent the agency from hiring up the Congressionally-mandated level. It is my opinion that they are violating the Budget Control and Impoundment Act of 1974. OMB argues that it has a rescission pending, but, as I'm speaking, the House Appropriations Committee is meeting this morning, and I feel certain that we will reject that rescission.

The effect, Mr. Chairman, is that the U.S. Customs Service is being decimated by a continuing attack on its resources while its mission expands. I want to work, and as I know this committee does, to help the Customs Service do a better job. And it is in that spirit that I offer this background and this testimony, because I don't believe we can do more with less. I believe that it is a federal responsibility, and one that we should not shirk away from, and one that we need to take on, and take on in a manner that will be beneficial, not just to the Customs Service, but to all of the people in this country that it serves.

I thank you for the opportunity to testify, Mr. Chairman.

[The prepared written statement of the Honorable Ronald D. Coleman follows:]

STATEMENT OF REPRESENTATIVE RONALD D. COLEMAN, TX.-16

COMMITTEE ON FINANCE

UNITED STATES SENATE

FEBRUARY 25, 1987

THANK YOU MR. CHAIRMAN FOR ALLOWING ME THE OPPORTUNITY TO TESTIFY BEFORE YOUR COMMITTEE THIS MORNING. LET ME SAY AT THE OUTSET THAT THOSE OF US ALONG THE SOUTHWEST BORDER ARE PROUD THAT THE SENIOR SENATOR FROM TEXAS HAS TAKEN OVER THE HELM OF A COMMITTEE SO IMPORTANT TO U.S.-MEXICO TRADE AND RELATIONS. YOU COMPREHEND AND UNDERSTAND OUR UNIQUE SITUATION.

I REPRESENT THE 16TH CONGRESSIONAL DISTRICT OF TEXAS WHICH ENCOMPASSES THE EL PASO DISTRICT OF THE UNITED STATES CUSTOMS SERVICE. THE PORT OF EL PASO, THE HUB OF THE EL PASO DISTRICT, IS THE LARGEST LAND PORT OF ENTRY ON OUR SOUTHWEST BORDER. IT HAS THE GREATEST LEVEL OF VEHICULAR TRAFFIC WHICH CONTINUES TO INCREASE WITH THE ADVENT OF ASSEMBLY PRODUCTION ALONG THE NORTHERN BORDER OF MEXICO. I ALSO SERVE ON THE HOUSE APPROPRIATIONS COMMITTEE AND THE SUBCOMMITTEE ON TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT WHICH WRITES THE ANNUAL APPROPRIATION FOR THE CUSTOMS SERVICE. AND, I SERVE AS THE CHAIRMAN OF THE CONGRESSIONAL BORDER CAUCUS, A BIPARTISAN GROUP OF CONGRESSMEN FROM THE SOUTHWEST BORDER REGION WHO WORK TOGETHER TO PRESENT OUR ISSUES TO THE REST OF CONGRESS. THROUGH MY DISTRICT, MY SEAT ON THE APPROPRIATIONS COMMITTEE, AND MY CHAIRMANSHIP OF THE BORDER CAUCUS, I HAVE DEVELOPED QUITE AN INTEREST IN THE MANAGEMENT OF THE U.S. CUSTOMS SERVICE. TO SAY THE LEAST, THINGS ARE NOT AS THEY SHOULD

BE.

I BELIEVE THE NUMBER ONE PROBLEM FACING THE U.S. CUSTOMS SERVICE TODAY IS THE LACK OF ADEQUATE RESOURCES TO PROVIDE EFFICIENT SERVICE TO THE PUBLIC. THE CUSTOMS SERVICE IS CHARGED WITH THE MISSION TO ASSESS, COLLECT, AND PROTECT REVENUE OWED THE UNITED STATES FROM DUTIES, TAXES, AND FEES. IT IS RESPONSIBLE FOR CONTROLLING, REGULATING, AND FACILITATING CARRIERS, PERSONS, AND ARTICLES ENTERING OR DEPARTING THE UNITED STATES TO ENSURE COMPLIANCE WITH LAWS AND REGULATIONS. AND, IT IS RESPONSIBLE FOR THE ENFORCEMENT OF ALL STATUTES, REGULATIONS, AND RULINGS GOVERNING THE ENTRY OF GOODS AND ARTICLES INTO THE UNITED STATES.

I AM OF THE OPINION THAT THE CUSTOMS SERVICE HAS PERHAPS THE BROADEST JOB DESCRIPTION OF ANY AGENCY IN THE FEDERAL GOVERNMENT. IN ADDITION TO ADMINISTERING AND ENFORCING THE TARIFF ACT OF 1930, THE CUSTOMS SERVICE IS RESPONSIBLE FOR ENFORCING STATUTES TO PROTECT DOMESTIC AGRICULTURE, BUSINESS, AND PUBLIC HEALTH. IT IS CHARGED WITH ENFORCING MOTOR VEHICLE REGULATIONS, SUCH AS THE MOTOR CARRIER SAFETY ACT OF 1984, AND RADIATION AND RADIOACTIVE MATERIAL STANDARDS. NOT THE LEAST IMPORTANT, THE CUSTOMS SERVICE IS CHARGED WITH THE PRIMARY RESPONSIBILITY OF ENFORCING OUR DRUG ENFORCEMENT LAWS AT THE BORDER -- SOMETHING THE CONGRESS IS STRONGLY COMMITTED TO.

GIVEN THIS BROAD ARRAY OF DUTIES AS DEFINED IN THE CUSTOMS SERVICE'S MISSION WE ARE ONCE AGAIN FACED WITH A DEVASTATING BUDGET REQUEST FROM THE

ADMINISTRATION. ONCE AGAIN, COMMISSIONER VON RAAB MUST COME UP TO THE HILL AND DEFEND A BUDGET OF WHICH HE SAYS, ' WE ARE DOING MORE WITH LESS'. WELL MR. CHAIRMAN, THAT JUST IS NOT THE CASE.

LET ME QUICKLY REVIEW THE ADMINISTRATION'S RECORD ON PAST BUDGETS FOR THE U.S. CUSTOMS SERVICE:

* FOR FISCAL YEAR 1984, THE ADMINISTRATION REQUESTED A CUT OF 1,775 POSITIONS BELOW THE FISCAL YEAR 1983 AMOUNT. THE CONGRESS APPROVED A CUT OF 200 POSITIONS.

* FOR FISCAL YEAR 1985, THE ADMINISTRATION REQUESTED A CUT OF 923 POSITIONS. THE CONGRESS FROZE THE NUMBER OF PERSONNEL AT APPROXIMATELY 13,418 POSITIONS.

* FOR FISCAL YEAR 1986, THE ADMINISTRATION REQUESTED A CUT OF 800 POSITIONS. THE CONGRESS REJECTED THAT CUT, AND INSTEAD ADDED 623 POSITIONS OVER THE FISCAL YEAR 1985 AMOUNT FOR A TOTAL OF 14,041 CUSTOMS SERVICE PERSONNEL.

* FOR FISCAL YEAR 1987, THE ADMINISTRATION PROPOSED A CUT OF 1,547 POSITIONS BY SUSTAINING THE GRAMM-RUDMAN CUT OF 700 POSITIONS AND CUTTING AND ADDITIONAL 800 PERSONNEL. THE CONGRESS ADDED BACK THE FUNDS CUT BY GRAMM-RUDMAN, REJECTED THE FISCAL YEAR 1987 CUT, AND ADDED 850 POSITIONS ABOVE THE FISCAL YEAR 1986 APPROPRIATION FOR A TOTAL OF 14,891 POSITIONS. AN ADDITIONAL 150 POSITIONS WERE ADDED IN THE OMNIBUS DRUG BILL.

* THE ADMINISTRATION'S FISCAL YEAR 1988 BUDGET HAS PROPOSED A RESCISSION OF $39 MILLION AND THE ABSORPTION OF $21.6 MILLION IN PAY AND RETIREMENT COSTS WHICH WILL RESULT IN A CUT OF 1,485 PERSONNEL IN FISCAL YEAR 1987. THEN FOR FISCAL YEAR 1988, THE ADMINISTRATION PROPOSES TO CUT AN ADDITIONAL 513 POSITIONS. THIS WOULD RESULT IN A TOTAL OF 13,039 AVERAGE POSITIONS.

BETWEEN 1979 AND 1986, THE LEVEL OF CUSTOM SERVICE PERSONNEL HAS REMAINED CONSTANT AT APPROXIMATELY 14,000 FULL-TIME EMPLOYEES. THE NUMBER OF IMPORT SPECIALISTS HAS FALLEN BY 309 POSITIONS. THE NUMBER OF INSPECTORS HAS REMAINED CONSTANT AT APPROXIMATELY 4,300 POSITIONS.

HOWEVER, IN THE SAME PERIOD DEMAND HAS INCREASED. THE NUMBER OF IMPORTS PROCESSED BY THE CUSTOMS SERVICE HAS INCREASED BY 56 PERCENT. THE ADMINISTRATION'S OWN BUDGET ASSUMES THAT THE NUMBER OF CARRIERS OF FOREIGN PERSONS AND MERCHANDISE ENTERING THE U.S. WILL INCREASE BY AT LEAST 5 PERCENT IN FISCAL YEAR 1988 AND THAT THE NUMBER OF FOREIGN PERSONS ENTERING WILL INCREASE BY 2 PERCENT. CONGRESS APPROPRIATED FUNDS TO PROVIDE FOR 102 ADDITIONAL IMPORT SPECIALISTS AND 344 INSPECTORS IN FISCAL YEAR 1987. YET THE ADMINISTRATION SEEKS TO ELIMINATE THESE POSITIONS.

AT THE SAME TIME, THE ADMINISTRATION CLAIMS TO MAKE A COMMITMENT TO THE WAR ON DRUGS. THE PRESIDENT AND FIRST LADY HAVE GONE ON NATIONAL TELEVISION AND THE CONGRESS HAS COMMITTED VAST RESOURCES TO COMBAT THIS SCOURGE ON SOCIETY. YET THE ADMINISTRATION SEEKS TO UNDO THE CONGRESS' WORK. THE

PRESIDENT HAS REQUESTED A RESCISSION IN FISCAL YEAR 1987 WHICH WILL RESULT IN A CUT OF 1,485 CUSTOMS PERSONNEL. AT CURRENT LEVELS, THE CUSTOMS SERVICE INSPECTS TWO OUT EVERY 100 CONTAINERS ENTERING THE NATION. ADDITIONAL CUTS IN MANPOWER WILL ONLY EXACERBATE LEAKAGE .

IF THE PRESIDENT'S BUDGET IS APPROVED, THE TOTAL NUMBER OF CUSTOMS PERSONNEL WOULD BE BELOW THE 14,000 AVERAGE FOR THE LAST SEVEN YEARS. FURTHERMORE, IT MEANS THE CUSTOMS SERVICE WOULD VIOLATE A PROVISION CONTAINED IN THE FISCAL YEAR 1987 CONTINUING RESOLUTION, P.L. 99-591 WHICH PROVIDES THAT THE CUSTOMS SERVICE SHALL MAINTAIN AN AVERAGE OF 14,891 FULL-TIME-EQUIVALENT POSITIONS. THIS PRESENTS ANOTHER PROBLEM WHICH EXISTS. IN THE PAST, THE ADMINISTRATION HAS ATTEMPTED TO HIRE LESS PERSONNEL THAN CONGRESS HAS PROVIDED FUNDS TO HIRE. THROUGH THE OFFICE OF MANAGEMENT AND BUDGET, THE ADMINISTRATION HAS CITED LACK OF AUTHORIZATION, ALTHOUGH IN THE YEARS WHERE THERE HAS NOT BEEN AN AUTHORIZATION BILL PER SE, LEGAL AUTHORIZATION HAS BEEN CARRIED IN THE APPROPRIATION BILL. OMB HAS ATTEMPTED TO USE BACKDOOR METHODS TO ACHIEVE CUTS REJECTED BY CONGRESS BY FORCING THE AGENCY TO ABSORB INCREASED COSTS SUCH AS PAY HIKES. THIS YEAR, OMB IS ASKING THAT CUSTOMS ABSORB THE COST OF THE FEDERAL EMPLOYEES RETIREMENT SYSTEMS AND THE THREE PERCENT PAY INCREASE FOR A TOTAL OF $21.6 MILLION WHICH WILL RESULT IN A CUT OF APPROXIMATELY 600 PERSONNEL. IT IS INTERESTNG TO NOTE THAT CUSTOMS IS ONE OF THE FEW AGENCIES UNDER THE TREASURY DEPARTMENT BEING FORCED TO ABSORB THESE COSTS. THE IRS, THE MOST LABOR INTENSIVE AGENCY IN TREASURY IS SEEKING A SUPPLEMENTAL APPROPRIATION. BUT THEN OMB AND THE ADMINISTRATION LEARNED WHAT HAPPENS WHEN YOU CUT THE IRS.

FACED WITH THE INTRANSIGENCE OF THE ADMINISTRATION TO ACCEPT CONGRESSIONAL POLICY WITH REGARDS TO THE CUSTOMS SERVICE, I SUCCESSFULLY OFFERED AN AMENDMENT TO THE FISCAL YEAR 1987 CONTINUING RESOLUTION WHICH PROVIDES THAT THE CUSTOMS SERVICE SHALL HIRE AND MAINTAIN AN AVERAGE OF 14,891 FULL-TIME-EQUIVALENT POSITIONS. I PLEAD GUILTY TO MICROMANAGING, BUT WE HAD NO OTHER CHOICE. THE CUSTOMS SERVICE HAS RUN AN AVERAGE ANNUAL VACANCY RATE OF APPROXIMATELY 400 POSITIONS. NOW I HAVE LEARNED THAT OMB IS STILL RESISTING AND HAS PLACED APPORTIONMENT CONTROLS ON THE CUSTOMS SERVICE QUARTERLY PAYMENTS TO PREVENT THE AGENCY FROM HIRING UP TO THE CONGRESSIONAL MANDATED LEVEL. IT IS MY OPINION THAT THEY ARE VIOLATING THE BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974. OMB ARGUES THAT IT HAS A RESCISSION PENDING, BUT I DOUBT CONGRESS WILL APPROVE IT.

THE EFFECT, MR. CHAIRMAN, IS THAT THE U.S. CUSTOMS SERVICE IS BEING DECIMATED ~~BY A~~ CONTINUING ATTACK ON ITS RESOURCES WHILE ITS MISSION EXPANDS. THE RESULT IS LONGER LINES AT OUR BRIDGES, LESS THAN EFFECTIVE ENFORCEMENT OF OUR TRADE LAWS, AND A LOSS OF BADLY NEEDED REVENUES. IF THE CONGRESS ALLOWS THE ADMINISTRATION TO CONTINUE DOWN ITS PRESENT PATH, WE WILL BEGIN TO SEE RESOURCES DIVERTED AWAY FROM COMMERCIAL ACTIVITIES AND INTO DRUG ENFORCEMENT. I BELIEVE WE ALL SUPPORT THE DRUG ENFORCEMENT EFFORTS OF THE CUSTOMS SERVICE, BUT CERTAINLY WE CANNOT SHORTCHANGE THE ENFORCEMENT OF OUR TRADE LAWS. AS THE CHAIRMAN WELL KNOWS, OUR TRADE DEFICIT IS AS DISASTROUS AS OUR DRUG CRISIS. AND THE ZERO-SUM BUDGET GAME BEING PLAYED BY THIS ADMINISTRATION WITH THE U.S. CUSTOMS SERVICE WILL BRING NEGATIVE EFFECTS ON

OUR NATION'S WELL BEING.

THE BUDGET SAVINGS ARE FALSE. A $60 MILLION SAVINGS IN FISCAL YEAR 1987 THROUGH A RESCISSION WILL ONLY BRING SHORT RUN GAINS. ACCORDING TO THE CONGRESSIONAL BUDGET OFFICE, WE MAY LOSE AT LEAST $1.3 BILLION IN REVENUES THROUGH FISCAL YEAR 1989. THAT FIGURE DOES NOT INCLUDE THE COSTS OF COUNTERFEIT GOODS ENTERING OUR MARKETS AND THE TOLL TAKEN BY INCREASED NARCOTICS AVAILABILITY.

I BELIEVE MY COLLEAGUES ON THE HOUSE APPROPRIATIONS COMMITEE WILL REJECT THE PROPOSED RESCISSION AND I INTEND TO OFFER AN AMENDMENT TO THE FISCAL YEAR 1987 SUPPLEMENTAL APPROPRIATION BILL TO COVER THE INCREASED RETIREMENT AND PAY COSTS. I WILL FIGHT THE ADMINISTRATION AND THE OFFICE OF MANAGEMENT AND BUDGET TO ENSURE THAT THE CUSTOMS SERVICE FOLLOWS THE LAW ESTABLISHED IN THE CONTINUING RESOLUTION. I WILL ALSO FIGHT THE PROPOSED FISCAL YEAR 1988 BUDGET CUTS. THEY ARE PENNY WISE AND POUND FOOLISH.

THE CURRENT SITUATION LEAVES THE CUSTOMS SERVICE MANAGING AN AGENCY WHICH IS GIVEN MORE RESPONSIBILITIES AND LESS RESOURCES WITH WHICH TO CARRY THEM OUT. THE CONGRESS HAS MANDATED MOST OF THESE RESPONSIBILITIES, AND THE ADMINISTRATION HAS SOUGHT, BY ANY WAY POSSIBLE, TO TAKE AWAY THE RESOURCES. I AM PLEASED THAT THE SENATE COMMITTEE ON FINANCE IS REVIEWING THIS PERILOUS SITUATION. THE HOUSE WAYS AND MEANS COMMITTEE IS TO HOLD SIMILAR HEARINGS. THE APPROPRIATIONS COMMITTEES OF THE HOUSE AND SENATE WILL HAVE TO HOLD HEARINGS AND WRITE A BUDGET. WE NEED THE SUPPORT OF THE AUTHORIZING

COMMITTEES. YOU HAVE IMPORTANT RESPONSIBILITIES WITH RESPECT TO OUR TRADE POLICY AND I BELIEVE THE CUSTOMS SERVICE IS AMONG THOSE RESPONSIBILITIES. WE SIMPLY CANNOT AFFORD TO TURN OUR BACK ON THIS AGENCY. TOO MANY PEOPLE SUFFER THE CONSEQUENCES. THE BORDER ECONOMY SUFFERS FROM DELAYS, CONGESTION, AND DISRUPTION OF TRADE AND COMMERCE. THE NATION'S ECONOMY SUFFERS FROM LESS ENFORCEMENT OF OUR LAWS AND LESS REVENUE. AND THOUSANDS OF AMERICANS SUFFER FROM THE GROWING INFLUX OF DRUGS. THESE ARE EQUALLY IMPORTANT CONCERNS, AND SHOULD BE TREATED AS SUCH.

MR. CHAIRMAN, YOU ARE TO BE COMMENDED FOR YOUR LEADERSHIP IN HOLDING THIS SERIES OF HEARINGS. THE CUSTOMS SERVICE MAY NOT BE AS GLAMOROUS AS SOME ISSUES, BUT I THINK YOU WILL AGREE, IT IS FAR MORE IMPORTANT THAN MOST.

I APPRECIATE THE OPPORTUNITY TO TESTIFY THIS MORNING.

Senator MATSUNAGA. Thank you, gentlemen. I apologize for low-attendance of the committee. Finance Committee members had a last-minute summons from the White House so Chairman Lloyd Bentsen is at the White House with the other members of the committee.

But, being members of Congress, you know how it is. I served in the House for 14 years. Fortunately, you have a limitation of committees there. Here, you don't. And we belong to too many committees and too many subcommittees. You can't be at three or four places all at the same time. And then when you become a member of the Finance Committee, you get frequent calls from the White House.

Thank you, again. I am in full agreement with both of you. If your sentiments prevail this committee will turn down the request of the Administration to reduce funding for the Customs Service.

Congressman BUSTAMANTE. Thank you, very much.

Congressman COLEMAN. Thank you, Mr. Chairman.

Senator MATSUNAGA. In it's budget for Fiscal Year 1988, the Administration has proposed to reduce the number of Customs Service employees by nearly 2,000 from the number that Congress authorized in 1987. This means a 13 percent reduction in Customs Service personnel. Now, we are concerned in Hawaii, and I would think elsewhere in the country, when we hear about such cuts. After all, there are only about 14,000 people in the Customs Service.

We are concerned in Hawaii that the reductions could never be uniform across the nation. If Los Angeles keeps full staffing and our staffing in Hawaii is reduced, it will have a major impact on our economy.

Semiconductor chip importers, who might use Hawaii as their port of entry, will switch to Los Angeles; and Japanese tourists who visit Hawaii on vacation more than any other vacation destination outside of Japan, would be discouraged from visiting our state.

And that would be disastrous to our economy. As a matter of fact, even if the reduction in staffing were uniform all across the country, the President's budget would still have many harmful effects. There have been tremendous increases in the workload of the Customs Service. It now processes nearly twice as many entries of merchandise as it did in 1980. The Customs Service is also the front line in our defense against illegal drug smuggling.

That is why this committee has been saying for years that it wants to increase staffing, not reduce it. We are happy that the Commissioner of the Customs Service and the Senior Associate Director of the U.S. General Accounting Office are here to testify today.

And I do hope that they will be able to answer some of the questions this committee has.

And we have, as our next witness, The Honorable William von Raab, Commissioner, United States Customs Service.

We would be happy to hear from you, Mr. Commissioner.

STATEMENT OF HON. WILLIAM VON RAAB, COMMISSIONER, U.S. CUSTOMS SERVICE, WASHINGTON, DC, ACCOMPANIED BY C. WAYNE HAMILTON, ACTING COMPTROLLER, SAMUEL H. BANKS, ASSISTANT COMMISSIONER (INSPECTION AND CONTROL)

Commissioner VON RAAB. Thank you, Mr. Chairman. Also with me is Wayne Hamilton, who is the Acting Comptroller of the Customs Service.

Senator MATSUNAGA. Mr. Hamilton?

Commissioner VON RAAB. Right. And also present behind the table are other officers of Customs, should you have questions of such level of detail that neither of us are able to answer. I appreciate this opportunity to appear before you today to discuss the Fiscal Year 1988 appropriations request for the U.S. Customs Service. I have a short opening statement, and request that a more detailed one be placed in the record.

Senator MATSUNAGA. Without objection, it is so ordered.

Commissioner VON RAAB. I might just look back on the past five years of Customs appropriations, and point out that the Customs budget, when I came into the Administration, was around $450 million. The level at which we are operating now is over $1 billion. So, Congressman Coleman is correct. There has been a lot of constructive discussion, disagreement between the Administration and the Congress as to the best way to fund the Customs Service. I think the results stand for themselves, that the Administration and the Congress have agreed, generally speaking, on a tremendous increase in the Customs Service. A large part of that increase represents some capital investments, which are not recurring. Therefore, we are really operating with a budget somewhere around $800 million, with considerable amounts for increased equipment that is coming on line.

I think it is important to keep that in mind, because although the Administration is proposing some reductions in the Customs budget, it must be viewed in the context of enormous increases that Customs has received over the past five years.

Our request for this fiscal year totals $803,090,000 for the salaries and expenses account; $86,210,000 for the operations and maintenance or the Air Program account; $10 million for the forfeiture fund; and $486,000 for the services at small airports account.

Mr. Chairman, it has been an active year for the Customs Service, and we have deployed over 600 new personnel just on the southwest border alone. We have placed new, more sophisticated aircraft in the air, and intensified our cooperation with state and local law enforcement officials. A lot of this is in addition to our ongoing effort in the fight to stop illicit drug traffic.

Mr. Chairman, we have also taken dramatic steps on the commercial side. Our efforts have concentrated on improving processing of commercial traffic, while not cutting back enforcement efforts to detect narcotics, fraud and quota violations. We have done this through expansion of the automated commercial system, as we call it, and selectivity systems which allow our inspectors and other Customs officers to concentrate on high-risk passengers and cargo,

while allowing legitimate transactions to receive minimal attention.

Our streamlining efforts will continue. Mr. Chairman, there is much more I could say, but most of the details are contained in the statement which I have submitted. I believe time would be better spent, sir, by answering your questions.

Thank you, very much.

Senator MATSUNAGA. Thank you, very much, Mr. Commissioner. Strictly as an individual who serves in your capacity and from your experience in your position, do you agree with the the Administration's proposed cuts?

Commissioner VON RAAB. Mr. Chairman, the Administration is faced with a very, very difficult overall problem of reducing federal expenditures. At that level, some very, very difficult decisions must be made. Those decisions, then, are sorted out and the impact of those larger budgetary decisions are felt on the organizations within the administration.

It is my personal view that given the responsibilities the administration has, in order to reduce expenditures across the board, the share that the Customs Service must bear is reasonable.

Senator MATSUNAGA. Are you a lawyer by profession?

Commissioner VON RAAB. I have practiced law. I am right now a government official by profession.

Senator MATSUNAGA. Well, you are responding as a lawyer. [Laughter.] How long have you been Commissioner now?

Commissioner VON RAAB. For five years.

Senator MATSUNAGA. Five years. Well, I can see how you have been able to be in that position five years. [Laughter.]

Isn't it true, Mr. Commissioner, that for every dollar spent in hiring of Customs personnel, we gain in revenues of as much as $15?

Commissioner VON RAAB. In fiscal year 1986, for each dollar appropriated our gain in revenue was $20.

Senator MATSUNAGA. So that, by reducing personnel, we would be reducing revenues, would we not?

Commissioner VON RAAB. Not necessarily, because our budget, over time, has had more monies put into computer or automation efforts. Therefore, by percentage the personnel component of our budget is not as great as it once was.

We estimate that our compliance rate in the Customs Service, which is really what you are driving at, is somewhere between 95 and 97 percent. So the question really is, what would be the marginal impact of each additional dollar spent. I would estimate that, although the general division comes down to $15 for each dollar spent, each additional dollar spent on the margin would only reflect a very small increase in revenue to the Customs Service.

Therefore, I'm not sure that the theory holds up when you are just talking about marginal dollars.

Senator MATSUNAGA. As I see it, Mr. Commissioner, the Customs Service has an enormous job to do. And I can appreciate it's position. Even during the best of times, it is very difficult for Customs to handle its twin responsibilities of facilitating commerce and preventing illegal imports. In the last year, the Customs Service, I understand, initiated an intensive new drug interdiction program.

Now, I can't understand how you can justify the cutbacks that the Administration is proposing, in the light of these efforts.

Of course, you have earlier stated in response to an earlier question that you have got to weigh all the facts, and the problems facing the Administration. But I, for one, just cannot see the position taken by the Administration. And I feel that you should have additional resources and personnel. Although you say your budget has just about doubled, in the past five years, I think your workload has more than doubled in that same period. I'm not seeking further response, unless you have comments to make.

Commissioner VON RAAB. No, Mr. Chairman.

Senator MATSUNAGA. And I see that Senator Baucus has joined us. Happy to have you. Did you leave the competitiveness meeting at the White House?

Senator BAUCUS. Did I leave the White House?

Senator MATSUNAGA. Yes.

Senator BAUCUS. Oh, I wasn't there.

Senator MATSUNAGA. Senator Baucus.

Senator BAUCUS. Thank you. I didn't know.

Thank you, Mr. Chairman. Most of all, I first thank you for some of the arrangements you have made over the years to help out with the various problems we have had in our state. One problem, I'm sure you anticipate, is the potential 13 percent cut in staff, and as I understand it under your proposal, a 12 percent cut in operations.

That affects rural states, rural border states, like Montana. As I look at the list of personnel at border stations and Customs officials in Montana, as you well know, there are many different stations, in fact, there are about 15 or 20 stations in the state, many of them which have one person, one person only. Some have two people, two only. Some have only three.

The obvious point is that reducing staff by say 13 percent, might mean the elimination of an entire station in Montana, and the long border states, where there is only one person. Whereas, the elimination of 13 percent, at say JFK or some other station in the country, does not mean the closure of that station.

Correspondingly, the inconvenience of people, travelers, Americans, or other nationalities travelling back and forth when a station is closed is much more severe. That is, a person will have to travel, say, 200 additional miles to find a station for border crossing. Whereas, the inconvenience of a 13 percent cut, reduction of one person at a larger station, would be somewhat slower service. I would have to go 200 miles to another station.

So, I would like your assurance that this 13 percent cut, if it goes into effect, will not mean the closure of any Montana stations.

Commissioner VON RAAB. To pick up on one of Chairman Matsunaga's statements, the proposal that the Administration has set forth does have a protection in it for Customs officers involved in drug enforcement. And their numbers are not to be reduced.

The net result would be that the reductions would fall on the commercial side.

Without trying to be cute with you, Senator, there is no question but that some of the reductions would fall on the northern border, because of the lower risk. It is a more friendly border, as far as drugs are concerned, than the Mexican border.

I hope that we would not have to close ports, but change the way we would do business at ports. You and I have had a few brief conversations over the possibility of centralizing some of the commercial traffic into a number of locations across the northern border, and opening up the smaller ports to a free flow of traffic, based upon a permit system.

That approach, although not initially designed for the purpose of saving personnel, would have the result of saving personnel. So, my answer to your question would be that we would not close any border ports, but personnel might be taken from some of the border ports, and therefore their character would be changed. And we would ask that some of the more serious commercial traffic be taken through other locations.

Senator BAUCUS. Do you plan to increase services or operations at any northern ports?

Commissioner VON RAAB. At this point, we do not have a plan to increase hours of operations. Our plan to change the way we do business in the northern border has not yet caught the fervor of any of the local communities. We are still talking to them about it, and until we anticipate or see that there is more interest in this approach, we wouldn't implement it.

Senator BAUCUS. I appreciate your assurance that there would be no closure of any ports along the border. I would ask, though, for assurance that you will give this committee, as you have in the past, 90 days notice before there is any change in personnel and operations.

Commissioner VON RAAB. Absolutely.

Senator BAUCUS. Absolutely. I would appreciate that. And we had that agreement in the past.

Commissioner VON RAAB. Yes.

Senator BAUCUS. And it was honored in the past, and we very much appreciate that.

I just wanted to point out that with the Senate, each state gets two senators. And that means that the rural states, like the Rocky Mountain, western states, get two senators just like some more popular states get two senators. That's written in the Constitution.

Commissioner VON RAAB. I'm well aware of it.

Senator BAUCUS. And so are we, I might add. And, I hope you remember that when you make your plans.

Commissioner VON RAAB. Yes sir.

Senator BAUCUS. Thank you.

Senator MATSUNAGA. I notice that Senator Daschle has joined us, and so has Senator Durenberger. Senator Daschle, do you have any questions of the Commissioner?

Senator DASCHLE. Thank you, Mr. Chairman. This is a relatively new issue for me as I try to appreciate the difficulties the Customs Service is experiencing with regard to the new challenges they have under drug enforcement. And I have some questions along that line.

Prior to my discussion on drugs itself, however, I'm confused a little bit with regard to your response to Senator Matsunaga about the increase in volume for the Customs Service, let's say in the last six years. What kind of an increase in volume of work has there been on a percentage basis?

Commissioner VON RAAB. In my complete statement, on page 2, I can give you a sense of the increase over the past year. And that is, Customs cleared just over 300,000,000 people and processed about 7.5 million formal entries, which is our term for the papers that are presented when a particular shipment of goods is entered in the United States. That is an increase of 7.3 percent.

Prior increases are approximately at the same level, 7 to 9 percent a year.

Senator DASCHLE. So over the time that you have been Commissioner, there has been roughly a 40 percent increase?

Commissioner VON RAAB. Since 1982, formal entries have increased 54 percent.

Senator DASCHLE. And then give me, again, the reduction in personnel on a percentage basis or a number basis, either one.

Commissioner VON RAAB. There has not been a reduction in personnel. We are considerably higher than we have been over the past five years right now.

Senator DASCHLE. So, you've got more people today than at any time?

Commissioner VON RAAB. Any time—I can't answer that because Customs has undergone a number of reorganizations. But we have more people on board today than we have had since I was Commissioner.

Senator DASCHLE. You have been able to stay constant to the number of personnel?

Commissioner VON RAAB. We are actually higher than we were.

Senator DASCHLE. The Administration is proposing what kind of reduction for next year?

Commissioner VON RAAB. They are proposing a reduction of 1,485 people for this year, the year in which we are operating now, and another 513 on top of that for our next fiscal year.

Senator DASCHLE. And your argument is that you can offset the loss of personnel by increases in mechanization and automation?

Commissioner VON RAAB. That's certainly one way to do it. And changes in the way that we do business.

Senator DASCHLE. How many packages do you inspect as they come through?

Commissioner VON RAAB. How many——

Senator DASCHLE. Say out of 100 packages.

Commissioner VON RAAB. Oh, you mean what percentage.

Senator DASCHLE. What percentage of packages do you actually inspect?

Commissioner VON RAAB. About 20 percent of containers. If you don't mind, because——

Senator DASCHLE. One out of five containers is——

Commissioner VON RAAB. Yes.

Senator DASCHLE [continuing]. Inspected?

Commissioner VON RAAB. Yes.

Senator DASCHLE. Personally?

Commissioner VON RAAB. Personally, I mean, satisfactory to the inspector in charge of that particular group.

Senator DASCHLE. So, that's correct?

Commissioner VON RAAB. You get into a very difficult question here of definition. We actually open two to three percent of all containers.

Senator DASCHLE. You open them.

Commissioner VON RAAB. And inspect them. But we actually inspect 20 percent of all the goods coming into the United States.

Senator DASCHLE. Why are not more opened?

Commissioner VON RAAB. The reason that more are not opened is primarily because we don't believe those others need to be opened, based on the information available. We believe it is sufficient for us to make a decision.

Senator DASCHLE. You are saying that out of 100 containers, if you open one or two, you have a pretty good appreciation of what the other 98 look like.

Commissioner VON RAAB. Well, you can't look at the inspection process as merely the opening of a container. A substantial amount of documents accompany the goods. An initial decision is made to open a container or not, based upon the character of the importer, the character of the goods said to be contained therein, the character of the document accompanying that container. Those are the bases upon which a decision is made as to whether to open that container.

Senator DASCHLE. My time is quickly running out. But, my whole purpose in asking these questions is that there was so much hoopla and so much hype around the war on drugs last fall. And if I heard it once, I heard it 100 times that the only way we're going to be able to win the war on drugs is to stop the flow of drug traffic coming into this country.

There is greater on-site inspection. Greater opportunities to actually inspect the packages coming across the border. What you are telling me is that now you are satisfied with a two percent check on most of those packages, at least as far as opening them is concerned. And that really belies what people said last fall. If you are satisfied with that and you have this amazing flood of drugs coming across the border, I'm puzzled by how we can actually effectively compete in this war on drugs with fewer personnel, with no additional increases in the inspections that you are providing for packages coming across the border. And then why, in light of that, given your satisfaction, you would ask for an increase of some several billion dollars in new user fees.

That all fits together, and the pieces do not mesh very well.

Commissioner VON RAAB. Senator, you used the word "satisfied". I didn't. You asked me what we used to make decisions and where we ended up. The level of inspections at two to three percent is probably not sufficient. But just blindly to open another X percentage, on a random basis, in my opinion, has possibilities of just holding up legitimate cargo coming across.

Our increased inspections must be based upon better techniques and better intelligence that we are receiving. If anything, we have received tremendous complaints over the past year for the increased level of inspection that the Customs Service has begun. We are inspecting all textiles coming into the United States, because of the problems that this country is having with illegal importations of textiles.

We are inspecting tremendous numbers of trucks coming across the southern border, because of the drug problem. If you go to Miami Airport, I'm not sure that there is a single carrier that would applaud Customs for its quickie inspections, because we are really doing very, very thorough inspections.

Therefore, we actually have increased our inspections substantially in what we call the enforcement area.

Senator DASCHLE. Thank you, Mr. Chairman.

Senator MATSUNAGA. Senator Durenberger, do you have any questions for the Commissioner?

Senator DURENBERGER. Yes. I thought of a couple while I was sitting here. Thank you very much, Mr. Chairman. Mr. von Raab, thank you very much for being here. I have a couple of Minnesota questions.

First, a compliment. I am a border state, and my people are impacted by the value of the financial and the resource commitment that the Customs Service puts in. I want to compliment you for your personal involvement in the manner cases, and your staff in theirs.

I have one question that I'm going to submit to you to respond to, in writing, if you will, because I don't want to take time here. It deals with Customs Form 3311, the Declaration for Free Entry of Returned American Products. It seems to be a current problem in my state that maybe you can help me with.

I think we have solved some of the user fee problems that you were just implementing—a not very well written legislative mandate on the border of Canada.

But, I would like to ask you a question here now that takes the user fee concept in a slightly different direction. This Administration, because it came in with the challenge of thinking about how a marketplace ought to work, and how we ought to spend money in different and more efficient ways, I think appropriately has been looking at user fees in a lot of areas.

Also, it has spent a good deal of time in changing our thinking about subsidies and trying to move us in the direction of more efficient subsidies. But you, like the intelligence community that I have been working with for the last eight years, carry out a lot of missions for other people inside the government.

You carry out a lot of missions for the Department of Defense. You carry out a lot of missions, if you will, for the Treasury Department. You carry out a lot of missions for other policies of this government. And, my question of you, very simply, with the Heritage Foundation and all the other great thinkers around this Administration's future looking policy, has anyone suggested to you that other policies, or other policy implementations within our government, ought to be carrying some of the load of financing the work of the Customs Service in this country.

Or are we only talking about the concept of American consumers paying for certain services for which they benefit?

Commissioner VON RAAB. There are two user fee pieces of legislation that have been passed and signed by the President, actually three. One of which is a straightforward user fee, based upon entries of ships and other transactions. Another one is an ad valorem tax on all of the commercial entries into the United States of .22

percent. And there is a third one, which is called the waterways fee, which is .04 percent.

The most important of those three is the .22 percent, which may generate somewhere between $500 and $600 million. The coverage of that user fee is intended only to apply to the commercial operations of the Customs Service. That is basically the administration of the tariff and trade laws.

The other activities to which you point, our work on critical technology exports, which is really done for the Department of Defense, or our efforts for the Department of Agriculture, or our efforts for EPA, or something like that, are really not covered by those user fees.

Those monies are still appropriated directly to the Customs Service. There has not been any discussion, to my knowledge, of schemes for reimbursement to Customs of those services.

Senator DURENBERGER. So what happens is that you come in here, in this part of the process, and say they've got a new thing they want us to do: drug interdiction. They've got a new thing: they've got salmonella in Mexico. And so, it is at this focal point where we bring, where we come together, and we are mad at you because you did not do this right, and we are mad at you because you did not do that right, that you have to present other people's priorities in this system.

Rather than Agriculture, Treasury, or Defense having to set some priorities within their work, I'm saying that one of the important things we have got to do is spend $1 billion in getting the Customs Service to do this work for us on technology. They don't have to bother with that. They don't have to set priorities.

I have that same problem in Intelligence. I have these very valuable multi-billion dollar collection systems going around up there, 23,000 miles in the air. And when somebody gets the hots for drug interdiction, they say, take them off of Iran and move them to Colombia. Well, who set that priority? Do you know how much that is going to cost us, maybe, over a year? It will cost us $1 billion to do that.

But, does anybody ever have to cough up the money for that decision? Nobody coughs it up, except the Intelligence community. And, if they were in Colombia looking at coca fields when they should have been in Iran looking at the war, and something goes wrong with the war, they catch heck for it.

I assume the same thing happens to you when there is a deficiency of one kind or another, or an inability to meet a national priority. The risk is that, within your system, you have to do a certain amount of reallocating of priorities from time to time, if somebody switches missions, and so forth.

Maybe over time you can push this kind of a concept on whatever administration may come along.

Commissioner VON RAAB. It is certainly worth looking at. We regard those responsibilities now as part of our normal workload.

Senator DURENBERGER. Thank you, Mr. Chairman.

Senator MATSUNAGA. Mr. Commissioner, one question. As a staunch supporter of the Customs Service, I am very sympathetic to the need to lessen it's burden of enforcing its trade and tariff sanctions.

And toward this end, as you may know, I introduced legislation which was adopted as part of the Trade Act of 1984, which increased the informal entry amount from $250 to $1,250. Could you provide this committee with your assessment of the effect of this change on the operations of your service?

Commissioner VON RAAB. First of all, I would say that we fully supported it and thank you for that, because that is really a reflection of the impact of inflation upon the value of those goods. We would be happy to give you a more detailed statistical impact statement, if that would be agreeable, and we will provide that for the record.

[The statistical impact statement follows:]

EFFECT OF CHANGE IN INFORMAL ENTRY AMOUNT ON CUSTOMS OPERATIONS

The Trade Act of 1984 allowed Customs to increase the informal entry amount of $250. Customs agreed to initially set the level of implementation at $1,000. Customs estimated that approximately 20 percent of formal entries filed were in the range of $251 to $1,000. This action has aided Customs since informal entries require less processing time. Customs personnel can focus their efforts on processing the larger, more complex formal entries, which overall, have significantly increased.

Senator MATSUNAGA. But, generally, you can say that it has helped to reduce your workload.

Commissioner VON RAAB. Oh, yes. It has been very helpful and it is quite a good idea.

Senator MATSUNAGA. Senator Chafee has arrived. Senator, do you have any questions for the Commissioner?

Senator CHAFEE. No, I don't. I was just looking over his statement, here, and you go ahead. And, if you are finished, that's fine. I just wasn't able to be here earlier.

Senator MATSUNAGA. Then if you wish to be excused, you may be excused, Commissioner. Or if you wish to remain and listen to your colleague you are welcome to do so.

Commissioner VON RAAB. I have studied my colleague's reports quite thoroughly. I may suggest that Mr. Banks, Assistant Commissioner of Customs, remain behind, because the testimony of my colleagues from GAO may raise other questions in your mind. Therefore, we could respond to them, if that's all right with you?

Senator MATSUNAGA. Mr. Commissioner, I have been told that Senator Packwood has questions for the record. I will read them to you at this point. Maybe this could be submitted in writing.

But, for the record, I will read it now.

In the 1986 Budget Reconcilation Act, we directed you to insure continuation of existing levels of commercial services at two Customs districts, one of them being Portland, Oregon. The statute also says that personnel there shall not be reduced through attrition, or otherwise. I have heard from several sources that personnel levels have not been maintained.

The National Treasury Employees' Union says that Portland has lost four people since the April 1986 effective date of the legislation. How does that square with your statutory responsibility?

Question number two. Next week, Delta will begin flights five days per week from Tokyo to Portland, which would require as many as 10 inspectors at the airport. Given the staff cuts that have

already apparently taken place, how can you handle this increased workload with a reduced budget?

I would be happy to have you respond to these questions, for the record.

Commissioner VON RAAB. I would be happy to do that.

[The responses follow:]

PORTLAND STAFFING

Senator PACKWOOD. In the 1986 Budget Act, we directed you to ensure continuation of existing levels of commercial services at two Customs districts, one of them being Portland, Oregon. The statute also says that personnel there "shall not be reduced through attrition or otherwise. * * *" I have heard from several sources that personnel levels have not been maintained. The National Treasury Employees Union says that Portland has lost four people since the April 1986 effective date of the legislation. How does that square with your statutory responsibility?

Commissioner VON RAAB. I have just recently directed that action be taken to recruit for those four positions.

DELTA AIRLINES FLIGHTS INTO PORTLAND

Senator PACKWOOD. Next week, Delta will begin flights five days per week from Tokyo to Portland, which could require as many as ten inspectors at the airport. Given the staff cuts that have already apparently taken place, how can you handle this increased workload within a reduced budget?

Commissioner VON RAAB. Delta Airlines began service from Tokyo to Portland the first week of March. The estimated time of arrival for this flight is at 6:30 in the morning. Currently this flight arrives five days a week and Delta anticipates a six day per week operation during this summer. These flights are presently arriving with 15 to 20 passengers on board.

Since these flights arrive before the current regularly scheduled inspectional tour of duty, we are staffing these flights on an overtime basis. This allows Customs to draw from its entire inspectional staff to process these flights and does not divert personnel from the regularly scheduled workload during the normal workday.

Furthermore, I am pleased to report that we are actively recruiting to fill four additional positions for the Portland District. With this increase, along with the use of intermittent employees to augment our present staff, we will have a sufficient number of personnel to meet the needs of the trade.

PASSENGER PROCESSING STANDARDS

Senator BRADLEY. How does Customs set national standards for processing passengers arriving at airports? Is this the same standard used for processing passengers at John F. Kennedy and Newark airports?

Commissioner VON RAAB. Customs developed and set standards for air passenger processing based upon years of experience and refinement of inspectional techniques. We want to process more than 95 percent of arriving passengers within 45 minutes after their checked baggage is available in the Customs facility. The obvious exception to this rule would be passengers suspected of smuggling contraband.

The Customs Service set these standards for all airports, including JFK and Newark. There are conditions which may cause variation from the standards: malfunctions in the baggage delivery system, simultaneous arrival of international flights that overload the facility (peaking), and delays to non-citizens caused by backlogs in processing by the Immigration and Naturalization Service.

ENSURANCE OF POLICY IMPLEMENTATION TO ALL PORTS OF ENTRY

Senator BRADLEY. How does the Customs Service ensure that the policy pronouncements it issues from Washington, D.C. are carried out in the regional districts in a nondiscriminatory manner, i.e., how does Customs guarantee that its policies are carried out uniformly at all ports of entry?

Commissioner VON RAAB. The policy pronouncements issued from our Headquarters Office are directed to our Regional Commissioners for implementation to our field offices. The Regional Commissioners utilize District Directors to ensure implementation is carried out to each port of entry.

Our Headquarters personnel conduct field surveys and perform audits on operations at ports of entry to ensure they adhere to Headquarters policies.

Passenger User Fees

Senator Bradley. Has Customs used the five dollar fee collected from arriving passengers to improve the processing services used by these passengers?

Commissioner von Raab. Under current legislation, the five dollar user fee cannot be used for additional staffing at our airports. This fee is presently being used for the payment of overtime services performed by inspectional personnel processing flights outside of regularly scheduled shift hours. Since the inception of user fees, Customs no longer charges the airlines for reimbursable inspectional overtime service performed by Customs personnel.

Import Documentation

Senator Durenberger. Mr. von Raab, why must a domestic company file a separate Customs Form 3311 or Manufacturer's Affidavit for products that it imports on a regular basis. Why can't customs allow the American company to merely file a single blanket Form 3311 or Manufacturer's Affidavit for such recurring imports?

Commissioner von Raab. The CF 3311 "Declaration for Free Entry of Returned American Products" is generally required in the case of merchandise returned under TSUS provisions 800.00 ("Products of the United States when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad") and 805.00 ("Photographic film and dry plates manufactured in the United States and exposed abroad, whether developed or not"). It may be waived by the District Director unless it is used as the sole entry document for Customs purposes. In those instances, proper execution is required. A separate declaration by the foreign shipper stating that the merchandise being returned to the United States was not advanced in value or improved in condition by any manufacturing process is also required. However, this too may be waived by the District Director. The common practice is not to require this documentation be submitted if substantiation of the claim of American Goods Returned can be made.

The CF 3311 cannot be used on shipments returned after having been assembled abroad. Merchandise returned after such assembly is generally entered under TSUS provision 807.00 which provides for a reduced duty treatment for the value of the components that were manufactured in the United States and assembled abroad. The documents required at the time of entry of these assembled products include a declaration by the assembler and an endorsement by the importer. The assembler's declaration must provide a description of the components exported from the U.S., their quantity, value at time of export, port and date of export, and the name and address of the manufacturer of the components. The District Director may waive submission of this information on an entry-by-entry basis if he believes the requirements for the 807.00 allowance have been met and the information required on the assembler's declaration does not change from shipment to shipment. New documentation is required to be submitted when changes to the previously submitted information occur.

Staffing at Dallas/Fort Worth International Airport

Question. Do you intend to follow the direction of Congress and allocate 25 additional personnel to Dallas/Fort Worth International Airport? If so, when?

Commissioner von Raab. We have already allocated ten positions to the Dallas/Fort Worth International Airport. The fifteen additional positions will be allocated as soon as possible.

Question. The Conference Committee Report directed Customs to staff a FIS at Dallas/Forth Worth International Airport Terminal 4E "as soon as practicable." The facility is scheduled to be opened on May 27, 1987. When will that facility be staffed?

Commissioner von Raab. That facility will be staffed as soon as possible after it becomes operational.

Senator Chafee. Mr. Chairman, I have one question for the Commissioner. And that is, the other day I saw an article that said the illegal immigration seems to have fallen off by about 30 to 40 percent, due to the fact that the employers under the new immigration law, are fearful of hiring illegal aliens. And so, the demand for the services, if you would, of illegal immigrants has declined tremendously.

I don't know whether this question was asked previously, but has that affected your activities, in any way, as far as interdiction of drug smuggling? Has the decrease in the waves of illegal immigrants had any affect on your operations?

Commissioner VON RAAB. Well, it had an indirect impact. Under a joint federal effort in the southwest, the Border Patrol and the Customs Service—Border Patrol being part of the Immigration and Naturalization Service—have teamed up more than before, as a matter of fact quite effectively, concerning the drug interdiction effort.

More border patrol would be available to concentrate on drug trafficking between the ports of entry, if the number of illegal aliens crossing the border has been reduced. My quick analysis of that situation is, that it would hopefully free up more Immigration and Naturalization officers to assist us in the drug interdiction effort on the southwest border.

Senator CHAFEE. All right. Fine. Thank you. Thank you, Mr. Chairman.

Senator MATSUNAGA. Thank you, Mr. Commissioner, and we will now hear from Mr. Allan Mendelowitz, Senior Associate Director, United States General Accounting Office.

[The prepared written statement of the Honorable William von Raab follows:]

U.S. CUSTOMS SERVICE

STATEMENT OF WILLIAM VON RAAB

COMMISSIONER OF CUSTOMS

FOR DELIVERY BEFORE

THE COMMITTEE ON FINANCE

U.S. SENATE

FEBRUARY 25, 1987

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR THIS OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO PRESENT THE U.S. CUSTOMS SERVICE FY 1988 APPROPRIATION REQUEST. WE ARE REQUESTING $803,090,000 AND 13,039 DIRECT AVERAGE POSITIONS FOR SALARIES AND EXPENSES AND $86,210,000 FOR OPERATIONS AND MAINTENANCE OF THE AIR PROGRAM. CUSTOMS IS ALSO REQUESTING AN APPROPRIATION OF $10,000,000 FOR THE FORFEITURE FUND AND $486,000 TO RECOVER ANTICIPATED REIMBURSEMENTS FOR SERVICES AT SMALL AIRPORTS.

CUSTOMS SALARIES AND EXPENSES FY 1988 APPROPRIATION REQUEST REPRESENTS A NET INCREASE OF $11,915,000 FROM THE REVISED FUNDING LEVEL PROPOSED TO CONGRESS FOR FY 1987.

CUSTOMS AIR PROGRAM OPERATIONS AND MAINTENANCE APPROPRIATION REQUESTS $86,210,000 FOR FY 1988. IN ADDITION, THERE IS INCLUDED IN FY 1988 $32,099,000 OF NO-YEAR RESOURCES APPROPRIATED IN FY 1987.

THIS BUDGET REQUEST INCLUDES PROPOSED ADJUSTMENTS TO THE FY 1987 CONTINUING RESOLUTION LEVEL PASSED BY P.L. 99-591. THE SALARIES AND EXPENSES APPROPRIATION INCLUDES A PROPOSED RESCISION FOR FY 1987 OF $38,945,000 AND 1,485 AVERAGE POSITIONS.

MAJOR ACCOMPLISHMENTS

IN ITS CAPACITY AS A REVENUE COLLECTING AGENCY UNDER THE TARIFF CODE OF 1930, THE CUSTOMS SERVICE COLLECTED $14.7 BILLION IN FY 1986. THIS TOTAL IS PROJECTED TO REACH $15.3 BILLION IN FY 1988.

CUSTOMS CLEARED 301,496,000 PERSONS AND PROCESSED 7,320,000 MERCHANDISE ENTRIES IN FY 1986, UP 7.3%.

AMONG OTHER THINGS CUSTOMS ALSO SEIZED 52,521 POUNDS OF COCAINE, THIS NATION'S NUMBER ONE NARCOTICS THREAT, 692 POUNDS OF HEROIN, 2,211,068 POUNDS OF MARIJUANA AND 17,555 POUNDS OF HASHISH. EARLY THIS YEAR CUSTOMS SEIZED A SINGLE CONTAINER CONTAINING 6,900 POUNDS OF COCAINE.

THE KNOWLEDGE THAT CUSTOMS HAS IN THE PAST YEAR CARRIED OUT THESE MILLIONS OF TRANSACTIONS IS MEANINGLESS WITHOUT THE KNOWLEDGE OF HOW CUSTOMS IS IMPROVING THE WAY IT DOES BUSINESS. AS A RESULT OF A NUMBER OF INNOVATIONS AND MANAGERIAL IMPROVEMENTS EITHER INITIATED IN FY 1986 OR CARRIED OVER FROM ONE OF THE PREVIOUS FOUR YEARS, I BELIEVE CUSTOMS IS DOING A BETTER JOB. I HAVE ATTACHED FOR THE COMMITTEE'S BENEFIT A COPY OF "U.S. CUSTOMS SERVICE ACCOMPLISHMENTS 1982 THROUGH 1986.

FIRST, I WILL ADDRESS CUSTOMS DRUG INTERDICTION EFFORT. UNDER REORGANIZATION PLAN NUMBER 2 OF 1973, CUSTOMS IS THE PRIMARY NARCOTICS BORDER INTERDICTION AGENCY. THIS COUNTRY IS FACING THE THREAT OF ILLEGAL IMPORTATION OF BUMPER CROPS OF COCAINE, MARIJUANA AND HEROIN. CUSTOMS HAS BEEN RELYING ON COOPERATION WITH THE PRIVATE SECTOR AND OTHER LAW ENFORCEMENT AGENCIES AND SMARTER USE OF OUR AUTOMATED SYSTEMS TO PUT GREATER AND GREATER PRESSURE ON NARCO-TRAFFICKERS.

CUSTOMS NARCOTICS COOPERATIVE EFFORTS WITH THE PRIVATE SECTOR ARE ALSO CONTINUING AND EXPANDING WITH THE ESTABLISHMENT OF THE 1-800-BE-ALERT SMUGGLING HOTLINE TO COMMUNITIES ALONG THE ENTIRE SOUTHERN TIER OF THE UNITED STATES. ON THE SOUTHWEST BORDER, LOCAL TRADE GROUPS ARE NOW WORKING WITH US TO DETERMINE HOW THEY CAN MONITOR THEIR OWN TRANS UNITED STATES/MEXICAN BORDER COMMERCIAL TRAFFIC THEREBY PREVENTING UNAUTHORIZED AND ILLEGAL USE OF THOSE VEHICLES TO SMUGGLE NARCOTICS.

ANOTHER CUSTOMS COOPERATIVE NARCOTICS INTERDICTION EFFORT THAT IS EXPANDING INVOLVES COMMERCIAL AIR AND SEA CARRIERS. THE COMMERCIAL CONCEPT BEGAN WITH AIR CARRIERS IN 1983. SINCE 1984 U.S. CUSTOMS HAS ENTERED INTO MEMORANDUMS OF UNDERSTANDING WITH MORE THAN 40 COMMERCIAL AIR CARRIERS SERVING HIGH RISK NARCOTIC SOURCE OR IN-TRANSIT LOCATIONS. THIS PROGRAM HAS PREVENTED 1100 POUNDS OF COCAINE, 12,000 POUNDS OF MARIJUANA AND 8 POUNDS OF HEROIN FROM REACHING THE U.S. MARKET. THIS PROGRAM IS NOW BEING EXPANDED TO THE COMMERCIAL SEA CARRIER COMMUNITY. ALL PARTICIPANTS IN THIS PROGRAM RECEIVE NARCOTICS ENFORCEMENT TRAINING FROM CUSTOMS IN RETURN FOR THEIR COOPERATION.

CUSTOMS IS GAINING BETTER CONTROL OF HIGH THREAT AREAS IN OUR AIRPORTS. THE CUSTOMS AIRPORT SECURITY PROGRAM WAS INITIATED IN EARLY FY 1986. IT REQUIRES AIRLINES TO CHECK THE HISTORY OF ALL EMPLOYEES THAT HAVE ACCESS TO SECURE CUSTOMS AREAS IN OR AROUND AIRPORT BUILDINGS. UNTRUSTWORTHY BAGGAGE HANDLERS OR RAMP SUPERVISORS NOW RUN A MUCH GREATER RISK OF BEING APPREHENDED OR DISMISSED IF THEY COOPERATE WITH NARCOTICS SMUGGLERS.

CUSTOMS TACTICAL NARCOTICS ENFORCEMENT: AIR AND MARINE PROGRAMS

CUSTOMS CURRENTLY HAS A FLEET OF 92 FIXED WING AND ROTARY AIRCRAFT IN USE TO DETECT, TRACK AND APPREHEND NARCOTICS SMUGGLERS USING PRIVATE AIRCRAFT. IN FY 1986, WITH FEWER AIRCRAFT THAN ARE ON BOARD NOW, THE CUSTOMS AIR PROGRAM SEIZED 16,145 POUNDS OF COCAINE.

CUSTOMS AIR INTERDICTION PROGRAM RESOURCES HAVE GROWN CONSIDERABLY SINCE EARLY 1984. OPERATIONS AND MAINTENANCE FUNDING HAS INCREASED SINCE THAT TIME FROM $31 MILLION IN FY 84 TO $170.9 MILLION IN FY 87. WE HAVE ALSO ADDED THE FOLLOWING RESOURCES SINCE 1984:

4	CESSNA CITATION II
4	P-3A ORIONS
2	E-2C HAWKEYES
10	BLACKHAWK HELICOPTERS
8	PIPER CHEYENNES
1	AEROSTAT

AS YOU KNOW, AIR SMUGGLERS ARE USING INCREASINGLY MORE SOPHISTICATED EQUIPMENT. IN BATTLING THESE CRIMINALS, CUSTOMS IS NOW DEPLOYING ITS HIGH PERFORMANCE, FULLY SENSORED HIGH SPEED INTERCEPTORS, HELICOPTERS AND AIRBORNE RADAR PLATFORMS, AND EIGHT NEW CUSTOMS HIGH ENDURANCE TRACKERS (CHETS). CUSTOMS ANTICIPATES DEPLOYING A NUMBER OF MODIFIED C-12 MILITARY AIRCRAFT TO BE UTILIZED AS TRACKER/INTERCEPTOR ASSETS. AN INTEGRATED LOGISTICS SYSTEM, WHICH PROVIDES COST EFFECTIVE MANAGEMENT OF CUSTOMS INCREASING AVIATION RESOURCES, HAS BEEN COMPLETED. CUSTOMS TRACKING AND APPREHENSION ABILITY WILL BE FURTHER ENHANCED WHEN THE CUSTOMS E2-C'S WITH 360 DEGREE LOOK DOWN RADAR ARE DEPLOYED NEXT MONTH. THE TWO E2-C'S PROVIDED IN THE 1986 DRUG BILL WILL GIVE CUSTOMS THE ABILITY TO FLY SUSTAINED MISSIONS ON THE SOUTHERN BORDER AND AND OVER THE GULF OF MEXICO. THESE MISSIONS WILL IMPROVE OUR ABILITY TO DETECT SMUGGLING AIRCRAFT. THESE AIRCRAFT IN ADDITION TO THE PLACEMENT OF THE AEROSTATS IN THE COMING YEARS, WILL GIVE CUSTOMS THE ABILITY TO MAKE A LARGE IMPACT ON ILLICIT NARCOTICS TRADE.

BASED ON THE SUCCESSFUL STRATEGY APPLIED IN THE SOUTHEAST, WE PLAN TO ESTABLISH AIR MODULES ALONG THE ENTIRE BORDER. THE BASIC PREMISE OF THE AIR MODULES IS TO PROVIDE CUSTOMS WITH THE INTEGRAL ABILITY TO DETECT, INTERCEPT, TRACK AND APPREHEND THE AIR SMUGGLER.

ULTIMATELY, THE OVERALL EFFECTIVENESS OF THE FULL AIR PROGRAM IS DEPENDENT ON THE COMMAND, COMMUNICATION, CONTROL AND INTELLIGENCE (C3I) SYSTEM AND THE DETECTION NETWORK OF AIRBORNE AND GROUND BASED RADARS. CUSTOMS BELIEVES THAT THE CONTINUED STRONG CENTRALIZED MANAGEMENT OF ASSETS AND THE INCREMENTAL BUILDUP OF CURRENTLY PLANNED C3I CENTERS WILL RESULT IN OPTIMAL EFFECTIVENESS OF CUSTOMS RESPONSE TO THE SHIFTING AND INCREASING SMUGGLING THREAT.

IN ORDER TO PROVIDE REAL-TIME OPERATIONAL COORDINATION BETWEEN THE DETECTION, TRACKING AND APPREHENSION COMPONENTS OF CUSTOMS AIR MODULES, CUSTOMS IS ANTICIPATING THE AVAILABILITY OF C3I CENTERS AT THREE STRATEGIC LOCATIONS ALONG SENSITIVE U.S. BORDERS. THESE FACILITIES WILL ENABLE CUSTOMS TO BETTER CONTROL ITS ASSETS AND COORDINATE INTERDICTION EFFORTS WITH OTHER FEDERAL, STATE AND LOCAL AUTHORITIES.

THE ADMINISTRATION HAS REQUESTED CONGRESS TO DELAY AVAILABILITY OF $52,099,000 IN FY 1987 SO-YEAR FUNDS TO FY 1988 FOR AIR OPERATIONS AND MAINTENANCE. THIS FUNDING DELAY IS BEING REQUESTED BECAUSE OF TECHNICAL COST RE-ESTIMATES AND THE ADMINISTRATION'S VIEW THAT ONLY THREE C3I CENTERS ARE APPROPRIATE. THEREFORE, THE FY 1988 PROPOSED BUDGET LEVEL INCLUDES THE REQUESTED $68,221,000 AND THE $52,099,000 FOR A TOTAL OF $118,320,000. A KEY ELEMENT OF OUR FY 87 AND FY 88 BUDGETS IS A SUBSTANTIAL INCREASE IN AIR PROGRAM OPERATING HOURS. IN CRITICAL REGIONS, OPERATING HOURS WILL INCREASE TO A 7 BY 24 SCHEDULE. IN FY 1987 AND 1988, CUSTOMS WILL CONTINUE TO OPERATE EXISTING RESOURCES AS WELL AS CHETS, AND E-2C RADAR DETECTION AIRCRAFT. CUSTOMS WILL ALSO INSTALL AP/FPS RADARS IN VESSELS, AIRCRAFT, AND CONTROL CENTERS, AND PLACE VHF REPEATERS ON AEROSTATS.

CUSTOMS HAS RECENTLY PLACED A GREATER EMPHASIS ON THE IMPORTANCE OF INFORMATION GATHERING AND THE USE OF TACTICAL INTELLIGENCE IN THE MARINE INTERDICTION PROCESS. CUSTOMS IS CONTINUING TO UTILIZE ITS MARINE ENFORCEMENT MODULE CONCEPT IN MANY LOCATIONS ON THE ATLANTIC, GULF OF MEXICO AND PACIFIC COASTS. EACH MARINE MODULE CONSISTS OF SPECIALLY TRAINED PERSONNEL AND STATE-OF-THE-ART MARINE EQUIPMENT. EACH TEAM IS RESPONSIBLE FOR DEVELOPING TACTICAL INFORMATION OF SMUGGLING IN ITS LOCAL AREA.

SINCE JANUARY, 1986, THE MARINE PROGRAM HAS ACQUIRED THE FOLLOWING ADDITIONAL RESOURCES: 30 INTERCEPTOR VESSELS, 10 SUPPORT VESSELS AND 3 RADAR PLATFORMS. IN ADDITION, CUSTOMS IS CURRENTLY PLANNING TO ACQUIRE AN ADDITIONAL 9 INTERCEPTORS, 10 SUPPORT VESSELS AND 1 RADAR PLATFORM. IN ADDITION, COMMUNICATION AND SENSOR EQUIPMENT HAS BEEN LOANED TO STATE AND LOCAL ENFORCEMENT AGENCIES FOR SUPPORTING OPERATIONS. CURRENTLY, SOME 375 RADIOS HAVE BEEN ASSIGNED TO STATE AND LOCAL GROUPS. CUSTOMS COOPERATION WITH STATE AND LOCAL AUTHORITIES HAVE BEEN ENHANCED IN THE PAST TWO YEARS THROUGH TWO OPERATIONS: "BLUE LIGHTNING" IN FLORIDA AND THE GULF COAST AND "BLUE FIRE" ON THE SOUTHWEST BORDER. THESE OPERATIONS HAVE BROUGHT TOGETHER RESOURCES OF THE CUSTOMS SERVICE AND THE STATE AND LOCAL AUTHORITIES THROUGHOUT THE SOUTHERN U.S. TO COMBAT ILLICIT IMPORTATION OF NARCOTICS.

CUSTOMS HAS NOW BEGUN TO USE ITS TACTICAL MARINE UNITS TO MONITOR COMMERCIAL AND PRIVATE VESSEL ACTIVITY INTO MAJOR SEAPORTS. IN VARIOUS SEAPORTS, TO FURTHER INCREASE MARINE TARGET DETECTION CAPABILITIES, CUSTOMS HAS INSTALLED ROOFTOP RADAR UNITS IN INLETS AND ALONG COASTAL AREAS.

COMMERCIAL OPERATIONS

ONE OF THE RESULTS OF CUSTOMS ENHANCED TACTICAL INTERDICTION CAPABILITIES IS THE SMUGGLER'S TEMPTATION TO ATTEMPT ENTRY OF HIS CONTRABAND THROUGH ESTABLISHED PORTS OF ENTRY. IN ORDER TO MEET THE SUBSTANTIAL NARCOTICS SMUGGLING THREAT AT THESE LOCATIONS CUSTOMS HAS HAD TO DEVELOP AUTOMATED SYSTEMS AND NEW WAYS OF PROCESSING PASSENGERS AND CARGO. THESE CHANGES IN THE WAY CUSTOMS OPERATES ARE INDISPENSABLE IF EFFECTIVE ENFORCEMENT OF CUSTOMS AND RELATED LAWS IS TO BE RECONCILED WITH EFFICIENT MOVEMENT OF PEOPLE AND CARGO.

AT THE HEART OF THE CUSTOMS COMMERCIAL PROCESSING REFORMS IS THE RAPID DEVELOPMENT OF THE AUTOMATED COMMERCIAL SYSTEM (ACS). TODAY, AT NUMEROUS PORTS, WE HAVE ON-LINE A COMPREHENSIVE DATA BASE WITH ALL THE FUNCTIONS REQUIRED FOR PROCESSING ELECTRONICALLY TRANSMITTED OR MANUALLY PREPARED ENTRIES. THE SYSTEM CAN EFFICIENTLY PROCESS ANY AND ALL ENTRIES PREPARED BY BROKERS. ALL REVENUE COLLECTED BY CUSTOMS IS PROCESSED THROUGH ACS, AS IS THE PREPARATION OF A DAILY BROKER STATEMENT. THE SYSTEM IS ALSO INTEGRATED INTO THE ELECTRONIC OPERATIONS OF LOCAL PORT AUTHORITIES AND MAJOR IMPORTERS.

ALL TOLD, ACS IS COMPRISED OF TWENTY PRIMARY MODULES. WHEN FULLY DEVELOPED, THIS SYSTEM WILL PROVIDE MUCH IMPROVED MANAGEMENT INFORMATION, BETTER TRADE STATISTICS, SIGNIFICANT CARGO PROCESSING EFFICIENCIES, AND INCREASED RESPONSIVENESS TO THE BUSINESS COMMUNITY.

ONE OF THE KEY ACS MODULES IS CALLED AUTOMATED BROKER INTERFACE OR ABI. CUSTOMS USES ABI TO PROCESS 30% OF ALL COMMERCIAL ENTRIES WHICH TOTALED 7.5 MILLION DURING 1986. ABI IS EXPECTED TO HANDLE 50% OF ALL ENTRIES BY 1988. SPEEDY ELECTRONIC HANDLING OF ENTRIES, REVENUE COLLECTIONS AND ENTRY LIQUIDATIONS ENABLE CUSTOMS TO PERFORM ITS MISSION WITH FEWER PERSONNEL.

ANOTHER ACS MODULE THAT IS HAVING A MAJOR ENFORCEMENT IMPACT ON CARGO PROCESSING IS ACS SELECTIVITY. THE SELECTIVITY MODULE IS AN ON-LINE SOPHISTICATED HISTORICAL DATA BASE WHICH HOLDS SUCH INFORMATION AS THE IMPORTER'S PAST RECORD WITH CUSTOMS, THE THREAT POTENTIAL OF PARTICULAR COMMODITIES, AND COUNTRY OF ORIGIN. INSPECTORS NOW DRAW CARGO INSPECTION RECOMMENDATIONS FROM ACS SELECTIVITY AS WELL AS THEIR OWN EXPERIENCE. IT SHOULD BE NOTED THAT ANY CUSTOMS INSPECTOR CAN OVERRIDE A SELECTIVITY RECOMMENDATION FOR A GENERAL OR CURSORY INSPECTION ON HIS OWN ACCORD. HOWEVER, OVERRIDE OF A SELECTIVITY RECOMMENDATION FOR AN INTENSIVE EXAMINATION REQUIRES THE APPROVAL OF THE INSPECTOR'S SUPERVISOR. FINALLY, SELECTIVITY INCORPORATES A RANDOM SAMPLE INSPECTION ELEMENT TO KEEP CLEAN SHIPPERS HONEST.

A QUOTA CONTROL WHICH IS OF PARAMOUNT INTEREST TO IMPORTERS HAS NOW BEEN INTEGRATED WITH ACS. THIS IMPROVES CUSTOMS CONTROL OVER QUOTA MERCHANDISE, IN PARTICULAR, THE ABILITY TO RESPOND QUICKLY TO CHANGING QUOTA REQUIREMENTS.

A CENSUS INTERFACE IS NOW OPERATIONAL IN ACS. DURING THE FIRST WEEK OF APRIL, THIS INTERFACE WILL TRANSMIT ELECTRONICALLY TO CENSUS ALL OF THE IMPORT LINE ITEM DATA THAT IS PROCESSED THROUGH ABI. THIS PROGRAM BENEFITS CUSTOMS AND THE BUREAU OF CENSUS BY PROVIDING MORE ACCURATE AND TIMELY TRADE STATISTICS AT LESS COST TO THE GOVERNMENT. BROKERS AND IMPORTERS BENEFIT IN THAT THEY DO NOT NEED TO PROVIDE AN ADDITIONAL COPY OF THE ENTRY SUMMARY DOCUMENT FOR STATISTICAL PURPOSES. SINCE STATISTICAL ERRORS ARE DETECTED "UP FRONT", CENSUS, CUSTOMS AND THE BROKERS AND IMPORTERS ALL BENEFIT FROM NOT HAVING TO REPROCESS ENTRIES THAT HAVE ERRORS.

A COMPLETE AND ACCURATE TARIFF RATE IS AN INTEGRAL PART OF ACS. THIS INFORMATION IS AVAILABLE TO THE TRADE COMMUNITY AND IS BEING UTILIZED BY OVER 100 USERS.

A FINES, PENALTIES, AND FORFEITURES MODULE IS IN PLACE WHICH IMPROVES CUSTOMS CONTROL OF THIS SOURCE OF GOVERNMENT INCOME.

A KEY TO ACS IS THE AUTOMATED MANIFEST SYSTEM WHICH ELECTRONICALLY COLLECTS MANIFEST DATA FROM IMPORTING CARRIERS. THIS IS THE INVENTORY OF SHIPMENTS THAT CUSTOMS CONTROLS. THIS IS FULLY OPERATIONAL IN NORFOLK AND LONG BEACH. WE ANTICIPATE COLLECTION OF 40% OF ALL IMPORTED SEA CARGO THROUGH THE PORT OF NEW YORK IN APRIL OF THIS YEAR.

AN EXPANSION OF THE LINE RELEASE SYSTEMS IS PLANNED FOR 1987 AND 1988. THIS SYSTEM, AT BOTH THE NORTHERN AND SOUTHERN BORDERS, ALLOWS CUSTOMS AND AUTOMATED BROKERS AND IMPORTERS TO PRE-DETERMINE ROUTINE, LOW RISK SHIPMENTS FOR IMMEDIATE RELEASE, THUS EXPEDITING THE MOVEMENT OF CARGO, WHILE AT THE SAME TIME, ENSURING INCREASED CUSTOMS CONTROL. THIS SYSTEM RECORDS THE SPECIFIC DETAILS OF IMPORTS ARRIVING IN THE U.S. THROUGH THE USE OF BAR CODES. THE PROCESS IS VERY SIMILAR TO HOW GROCERY PRICES ARE RECORDED AT THE SUPERMARKET. THIS IMPROVES THE SPEED AND ACCURACY OF CARGO RELEASE.

CURRENTLY, THE DAILY SHIPMENT FEATURE OF THE AUTOMATED BROKER INTERFACE PROVIDES FOR A "SINGLE CHECK" PAYMENT OF A DAILY BATCH OF ENTRY SUMMARY PACKAGES WHICH IS PRESENTED TO CUSTOMS UP TO 10 DAYS AFTER THE CARGO RELEASE DATE. AN ADDITIONAL CAPABILITY HAS BEEN DEVELOPED TO PROVIDE FOR A "PERIODIC PAYMENT" PROCEDURE FOR ENTRY SUMMARIES TRANSMITTED THROUGH ABI. THIS CONCEPT HAS BEEN DESCRIBED AS BEING COMPARABLE TO A REVOLVING CHARGE ACCOUNT WHEREBY CHARGES AND CREDITS ARE APPLIED TO A CUSTOMER'S ACCOUNT AND THEN PAID ON A PERIODIC BASIS WITH INTEREST. THIS PROPOSED FEATURE HAS RECENTLY BEEN PUBLISHED IN THE FEDERAL REGISTER FOR TRADE COMMENT, WITH IMPLEMENTATION TO FOLLOW. PERIODIC PAYMENT WILL FURTHER ENHANCE THE COLLECTION PROCESS, AND AT THE SAME TIME, BENEFIT BOTH CUSTOMS AND THE TRADE BY ELIMINATING REDUNDANT FUNCTIONS AND REDUCING BOOKKEEPING COSTS.

CUSTOMS IS ALSO CONTINUING WITH THE OVERHAUL OF THE TREASURY ENFORCEMENT COMMUNICATIONS SYSTEM (TECS). THIS SYSTEM, WHICH PRE-DATES ACS AS WE KNOW IT TODAY, INCLUDES A COMPREHENSIVE ENFORCEMENT DATA BASE SYSTEM AND STATE-OF-THE-ART HARDWARE, SOFTWARE AND DATA MANAGEMENT SYSTEMS. THIS SYSTEM WILL SOON BE LINKED TO OTHER ACS MODULES, THEREBY PROVIDING FOR THE EXPANSION AND INTEGRATION OF THE EXISTING AUTOMATED ENFORCEMENT EFFORTS SUCH AS OPERATION EXODUS, THE TREASURY FINANCIAL LAW ENFORCEMENT SYSTEMS AND COMMERCIAL FRAUD, AS WELL AS OTHER ENFORCEMENT EFFORTS. TO SUMMERIZE THE ADMINISTRATION'S REQUEST EMPHASIZES THE FURTHER ACQUISITION AND USE OF HIGH TECHNOLOGY AND OTHER AUTOMATED PROCESSES, RATHER THAN PERSONNEL INTENSIVE APPROACHES.

COMMERCIAL OPERATIONS FUNDING

A MAJOR BUDGETARY CHANGE FOR CUSTOMS COMMERCIAL OPERATIONS IS BEST ADDRESSED AT THIS JUNCTURE.

THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986 (P.L. 99-509) ESTABLISHED AN AD VALOREM FEE BASED ON THE VALUE OF IMPORTED MERCHANDISE. RECEIPTS COLLECTED FROM THIS FEE ARE TO BE DEPOSITED IN THE "U.S. CUSTOMS USER FEE ACCOUNT" AND, SUBJECT TO APPROPRIATION, WILL BE USED TO FUND COMMERCIAL OPERATIONS WITHIN THE CUSTOMS SERVICE.

IN THE FY 1988 BUDGET REQUEST FOR SALARIES AND EXPENSES, COMMERCIAL ACTIVITIES OF INSPECTION AND CONTROL, ALL OF TARIFF AND TRADE AND THE COMMERCIAL FRAUD OPERATIONS OF INVESTIGATIONS HAVE BEEN CONSOLIDATED INTO THE COMMERCIAL OPERATIONS ACTIVITY. THIS PROGRAM INCLUDES 8,001 AVERAGE POSITIONS AND $499,198,000. THIS WILL NOT AFFECT THE PROGRAM DESCRIPTIONS AND JUSTIFICATIONS PRESENTED HERE.

CARGO PROCESSING USER FEE RECEIPTS HAVE BEEN COLLECTED IN FY 1987 SINCE DECEMBER 1, 1986. THE ADMINISTRATION HAS NOT PROPOSED RESCINDING CURRENT APPROPRIATED FY 87 FUNDS AND SUBSTITUTING AN APPROPRIATION FROM THESE USER FEES FOR CUSTOMS 1987 ACTIVITIES BECAUSE OF THE UNCERTAINTY OF OUR CURRENT RECEIPT ESITMATES AND THE NEED TO HAVE A BALANCE AT THE START OF FY 88 FROM WHICH A FY 88 APPROPRIATION CAN BE MADE.

INSPECTION AND CONTROL: PASSENGER AND CARGO PROCESSING

CUSTOMS INSPECTORS MAKE UP THE LARGEST SINGLE GROUP OF THE CUSTOMS FIELD OFFICERS. INSPECTORS OFTEN OPERATE IN A VARIETY OF SETTINGS WITHIN ONE PORT AREA, SOMETIMES PROCESSING THEIR PASSENGERS DURING THE MORNING OR AFTERNOON AND HANDLING AIR OR SEA CARGO THE REMAINDER OF THE DAY. OTHERS WORK IN CONTRABAND ENFORCEMENT TEAMS OR AT LAND BORDER STATIONS. WHATEVER THEIR STATION, INSPECTORS AND THEIR SUPERVISORS ARE CONSTANTLY DEALING WITH A CONFLICT: THE PUBLIC'S DESIRE TO SEE CUSTOMS ENFORCE NARCOTICS AND COMMERCIAL FRAUD LAW WHILE AT THE SAME TIME FACILITATING SMOOTH PASSENGER AND CARGO FLOW.

MANAGERIAL AND TECHNICAL IMPROVEMENTS NOW IN THE INITIAL IMPLEMENTATION OR TESTING STAGES WILL INCREASE PASSENGER ENFORCEMENT EFFECTIVENESS WITHOUT INCREASING PASSENGER TIMES. SOME OF THESE ARE EXPANDED USE OF THE TREASURY ENFORCEMENT COMPUTER SYSTEM, THE USE OF PASSPORT READERS AND LICENSE PLATE READERS. THE MORE FAR REACHING INSPECTION AND CONTROL CHANGES, HOWEVER, ARE IN THE AREA OF CARGO PROCESSING.

CARGO PROCESSING

PRIOR TO THE ADVENT OF AUTOMATION CUSTOMS CARGO PROCESSING WAS STILL BEING DONE TODAY THE SAME WAY IT WAS DONE TWO HUNDRED YEARS AGO. WITH THE ADVENT OF RECORD HIGH VOLUMES OF COMMERCIAL ENTRIES, IT WAS APPARENT THAT CUSTOMS MUST CHANGE ITS CARGO PROCESSING TECHNIQUES. AS MENTIONED EARLIER, CUSTOMS EXPANDED USE OF ACS CARGO SELECTIVITY AND FURTHER DEVELOPMENT OF OTHER ACS MODULES IS AT THE HEART OF PROCESSING REFORMS. THE OTHER MAJOR CHANGE INVOLVES THE USE OF STRINGENT SELECTIVITY CRITERIA TO CHOOSE WHICH COMMERCIAL SHIPMENTS SHOULD RECEIVE INTENSIVE EXAMINATIONS, AND CENTRALIZATION OF A NUMBER OF KEY CUSTOMS FUNCTIONS: THE REVIEW OF COMMERCIAL DOCUMENTS, DEVANNING OF SHIPPING CONTAINERS AND THE EXAMINATION OF OTHER COMMERCIAL SHIPMENTS.

OVER THE YEARS, THERE HAS BEEN A RAPID INCREASE IN THE NUMBER OF CONTAINER FREIGHT STATIONS, BONDED WAREHOUSES, AND TRUCK AND RAIL TERMINALS RECEIVING BONDED FREIGHT. THE DEVANNING OF CONTAINERS AND THE EXAMINATION OF THIS CARGO HAS REQUIRED CUSTOMS INSPECTORS TO USE VALUABLE TIME TRAVELLING FROM SITE TO SITE WITHIN PORT LIMITS, MOREOVER, DEVANNING AND EXAMINATION FACILITIES AT THESE REMOTE SITES ARE OFTEN INADEQUATE. THIS TIME IS NOW GOING TO BE SPENT EXAMINING CARGO AND CLEARING MERCHANDISE.

CENTRALIZATION OF DOCUMENT REVIEW IS ANOTHER MAJOR CHANGE IN THE WAY CUSTOMS DOES BUSINESS THAT, WHEN FULLY IMPLEMENTED, WILL REDUCE AVERAGE CARGO PROCESSING TIMES.

ALTHOUGH ALL THE CARGO PROCESSING CHANGES DISCUSSED HAVE SO FAR BEEN APPLIED IN SELECTED SEAPORTS AND AIRPORTS, CUSTOMS PLANS TO ADAPT THESE TECHNIQUES TO THE LAND BORDER ENVIRONMENT AS QUICKLY AS POSSIBLE. CUSTOMS IS CONFIDENT THAT THE FINAL RESULT OF ALL THESE CHANGES WILL BE A MORE EFFICIENT AND EFFECTIVE USE OF CUSTOMS PERSONNEL, BETTER ENFORCEMENT RESULTS AND EVEN BETTER FACILITATION OF CARGO.

INVESTIGATIONS

WORKING CLOSELY WITH INSPECTORS, IMPORT SPECIALISTS, CUSTOMS AIR OFFICERS, AND CUSTOMS MARINE OFFICERS ARE SPECIAL AGENTS FROM THE OFFICE OF ENFORCEMENT. THE EMPHASIS ON ENFORCEMENT AT CUSTOMS HAS CAUSED SPECIAL AGENT NUMBERS TO INCREASE FROM 400 IN 1981 TO OVER 1,100 TODAY. CUSTOMS SPECIAL AGENTS INVESTIGATE AND BRING TO PROSECUTION CASES IN A

VARIETY OF FIELDS. THE MOST PROMINENT OF WHICH ARE NARCOTICS IMPORTATION, BANK SECRECY ACT VIOLATIONS, COMMERCIAL FRAUD, PORNOGRAPHY IMPORTATION, ARMS AND CRITICAL TECHNOLOGY EXPORT CONTROL, AND ORGANIZED CRIME RELATED NARCOTICS SMUGGLING ACTIVITY. THE MAIN PROGRAMS ARE DESCRIBED BELOW. IN EACH PROGRAM, TARGETING DEPENDS HEAVILY UPON THE DEVELOPMENT AND COLLECTION OF INTELLIGENCE.

ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE (OCDETF)

CUSTOMS PARTICIPATES WITH OTHER FEDERAL LAW ENFORCEMENT AGENCIES IN 13 CORE CITY TASK FORCES IN THE ORGANIZED CRIME DRUG ENFORCEMENT PROGRAM. CUSTOMS ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE (OCDETF) INVESTIGATIONS TARGET DRUG SMUGGLING GROUPS ENGAGED IN MONEY LAUNDERING.

IN FY 1989, CUSTOMS PLANS TO CONTINUE WITH CURRENT RESOURCE COMMITMENTS TO THE PRESIDENTIAL ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCES. THESE SPECIALIZED INVESTIGATIVE TASK FORCES WILL CONTINUE TO DISMANTLE LARGE-SCALE DRUG SMUGGLING ORGANIZATIONS. TO DATE, CUSTOMS SPECIAL AGENTS HAVE ACHIEVED SIGNIFICANT RESULTS. IN FY 1988, CASES INVOLVING CUSTOMS PARTICIPATION RESULTED IN 1,277 INDICTMENTS, 1,042 ARRESTS, 753 CONVICTIONS, $107,000,000 IN U.S. CURRENCY AND PROPERTY SEIZURES, SEIZURES OF 5,965 KILOGRAMS OF COCAINE AND 319 KILOGRAMS OF HEROIN, AND $5,000,000 IN FINES ASSESSED.

Penalty Program

FOR SEVERAL YEARS, CUSTOMS HAS EMPHASIZED ITS PENALTY EFFORTS AGAINST ILLEGAL OR UNAUTHORIZED STEEL, TEXTILE, AND CLOTHING IMPORTS, AS WELL AS DRAWBACK AND TRADEMARK AND COPYRIGHT VIOLATIONS. THESE EFFORTS HAVE PRODUCED RESULTS IN FORMS OF PENALTY RECOVERIES AND PROSECUTION OF CRIMINALS. FY-87 IS RUNNING SIGNIFICANTLY AHEAD OF LAST YEAR'S TOTALS. THE FIRST THREE MONTHS OF FY-87 HAVE RESULTED IN 257 TEXTILE SEIZURES VALUED AT $28,000,000. TEXTILE PENALTY INVESTIGATIVE CASES APPEAR FOR 85% OF ALL MAJOR PENALTY CASES TRACKED BY CUSTOMS HEADQUARTERS.

CUSTOMS IS WRAPPING UP ANOTHER MAJOR INVESTIGATION, "OPERATION BITTERSWEET", INVOLVING SUGAR DRAWBACKS. TO DATE, 46 INDICTMENTS HAVE BEEN OBTAINED, 30 ARRESTS MADE, 32 CRIMINAL CONVICTIONS OBTAINED YIELDING $372,000 IN CRIMINAL FINES AND $2,636,000 IN MONEY RECOVERED. IN ADDITION, CIVIL SETTLEMENTS ALREADY NEGOTIATED WILL YIELD MORE THAN $14,000,000. ANOTHER IMPORTANT CASE INVOLVES ORANGE JUICE IMPORTS.

AS NOTED IN PAST YEARS, CUSTOMS CONTINUES TO PLACE A SPECIAL EMPHASIS ON ALL STEEL, TEXTILE, AND WEARING APPAREL IMPORTS. SPECIAL FRAUD TASK FORCE OPERATIONS IN FY 1988 WILL CONTINUE TO DIRECT THEIR EFFORTS AGAINST ILLEGAL MERCHANDISE BEFORE IT ENTERS UNITED STATES COMMERCE. THE AUTOMATED COMMERCIAL SYSTEM (ACS) HAS GREATLY EXPANDED CUSTOMS COMMERCIAL INVESTIGATIVE CAPABILITY BY ENABLING CUSTOMS AGENTS AND IMPORT SPECIALISTS TO TARGET VIOLATORS BY CORRELATING COMMERCIAL, FINANCIAL AND ECONOMIC DATA WITHIN SELECTED "HIGH RISK" AREAS.

WITH DIRECTION AND ASSISTANCE FROM THE COMMERCIAL FRAUD COMMAND CENTER AT HEADQUARTERS, CUSTOMS PERSONNEL WILL CONTINUE TO PURSUE THOSE WHO PRESENT FALSE DOCUMENTS, USE COUNTERFEIT VISAS AND EXPORT LICENSES, USE THIRD COUNTRIES AS TRANSSHIPMENT POINTS, AND USE FALSE DESCRIPTIONS AND CLASSIFICATIONS.

FINANCIAL LAW ENFORCEMENT PROGRAM

CUSTOMS INVESTIGATIVE ATTACK ON NARCOTICS SMUGGLING ORGANIZATIONS USING PROVISIONS OF THE BANK SECRECY ACT HAS PAID EXCELLENT DIVIDENDS IN TERMS OF ITS IMPACT ON THE LARGEST SMUGGLING GROUPS OPERATING IN THIS COUNTRY. MULTI-AGENCY INVESTIGATIVE AND PROSECUTORIAL TEAMS, OPERATING UNDER THE LEADERSHIP OF LOCAL U.S. ATTORNEYS, ARE CURRENTLY ACTIVE IN MOST CITIES WITH A HISTORY OF LARGE-SCALE CURRENCY MOVEMENTS AND CITIES MOST ACTIVE IN DRUG TRAFFICKING.

OPERATION BUCKSTOP, A 1986 CUSTOMS NATIONAL OUTBOUND CURRENCY INTERDICTION PROGRAM RESULTED IN 162 SEIZURES TOTALLING IN EXCESS OF $42 MILLION.

CUSTOMS CONTRIBUTION TO THE ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE IN 1986 INCLUDES; 1,042 ARRESTS; $46 MILLION IN CURRENCY AND OVER $61 MILLION IN PROPERTY SEIZED.

OUR FINANCIAL ANALYSIS DIVISION (FAD) IS THE NATIONAL CLEARINGHOUSE FOR ALL FINANCIAL DATA. THE DIVISION ANALYZES THE FINANCIAL CHARACTERISTICS OF CRIMINAL MARKETS AND ASSISTS IN DEVELOPING USABLE STRATEGIES FOR EXPLOITING CRIMINAL FINANCIAL PRACTICES. THE FAD IS ALSO THE SOURCE OF INTELLIGENCE, BOTH DOMESTIC AND FOREIGN, DEVELOPED AND ADAPTED FOR THE INVESTIGATIVE FIELD UNITS. DURING FY 1986, FAD IDENTIFIED 1,091 INDIVIDUALS AND 366 COMPANIES SUSPECTED OF LAUNDERING $1.2 BILLION DOLLARS.

EXPORT ENFORCEMENT

CUSTOMS COMPREHENSIVE EXPORT PROGRAM -- CALLED EXODUS --HAS THREE MAJOR OBJECTIVES:

TO ENFORCE THE ARMS EXPORT CONTROL ACT (AECA) WHICH PROHIBITS THE EXPORT OF MUNITIONS LIST CONTROLLED ITEMS -- ARMS, MUNITIONS, WEAPONS SYSTEMS --WITHOUT STATE DEPARTMENT CLEARANCE.

TO ENFORCE THE EXPORT ADMINISTRATION ACT AMENDED OF 1985 (EAAA) TO PREVENT THE ILLEGAL EXPORT OF CRITICAL TECHNOLOGIES AND SENSITIVE EQUIPMENT TO FOREIGN COUNTRIES.

TO ENFORCE EMBARGOES AGAINST NICARAGUA, LIBYA, SOUTH AFRICA, NORTH KOREA, VIET NAM, CAMBODIA, CUBA, AND SYRIA, AS WELL AS A DEFACTO EMBARGO AGAINST IRAN.

IN CARRYING OUT THE EXODUS PROGRAM, CUSTOMS TARGETS ILLEGAL EXPORTS WHILE MINIMIZING THE IMPACT ON LEGITIMATE TRADE. THIS IS DONE THROUGH THE USE OF SPECIFICALLY TARGETED ENFORCEMENT OPERATIONS CONCENTRATING ON HIGHLY SELECTIVE CRITICAL EXPORTS, INCREASED FOREIGN INFORMATION, AND ADP GENERATED ANALYTICAL INTELLIGENCE. THE BASIC ELEMENTS OF THE EXPORT ENFORCEMENT PROGRAM ARE: INTERDICTION, INVESTIGATION, DOMESTIC AND INTERNATIONAL COOPERATION. COMBINED, THESE ELEMENTS PROVIDE NOT ONLY DETERRENCE, BUT ALSO A PROACTIVE INVESTIGATIVE APPROACH TO DETECT AND DISRUPT CRIMINAL EXPORT CONSPIRACIES. IN FY 1988, A WIDE RANGE OF EXPORT ENFORCEMENT INITIATIVES WILL BE CONTINUED: UNDERCOVER OPERATIONS, ENHANCED LIAISON WITH THE INTELLIGENCE COMMUNITY, INCREASED FOREIGN COOPERATION, AND, SUPPORT AND ASSISTANCE TO FOREIGN GOVERNMENTS IN THEIR OWN CONDUCT OF OPERATIONS DIRECTED AGAINST EXPORT VIOLATIONS.

SINCE PROGRAM INCEPTION ON OCTOBER 1, 1981 THROUGH FY 86, CUSTOMS EXODUS PROGRAM HAS BEEN RESPONSIBLE FOR OVER 5,220 SEIZURES VALUED AT OVER $350 MILLION, 726 ARRESTS, AND 490 CONVICTIONS. DURING FY 86 ALONE, THE PROGRAM RESULTED IN 802 SEIZURES OF MERCHANDISE VALUED AT $51.6 MILLION. THESE SEIZURES RESULTED FROM 1,062 DETENTIONS OF SUSPECT EXPORTS, RESULTING IN A HIGHLY FAVORABLE SEIZURE-TO-DETENTION RATIO OF 76%.

PORNOGRAPHY

THE PAST DECADE HAS SEEN SUBSTANTIAL GROWTH IN PORNOGRAPHY TRAFFICKING. BECAUSE IT IS A PROBLEM OF NATIONAL CONCERN, CUSTOMS HAS STEPPED UP THE LEVEL OF ITS ENFORCEMENT. WE ARE AGGRESSIVELY INVESTIGATING PORNOGRAPHY CASES, ESPECIALLY WHERE LARGE VOLUME DEALERS, ORGANIZED CRIME, OR CHILD PORNOGRAPHY ARE INVOLVED. SINCE PORNOGRAPHY IS SMUGGLED INTO THE UNITED STATES ACROSS INTERNATIONAL BORDERS, CUSTOMS HAS A VITAL ROLE IN CURBING THE IMPORTATION OF PORNOGRAPHIC MATERIALS AND SEEKING PROSECUTION OF VIOLATORS OF CUSTOMS AND RELATED PORNOGRAPHY LAWS. TO ACCOMPLISH THIS, CUSTOMS, TOGETHER WITH OTHER FEDERAL, STATE, LOCAL AND FOREIGN AUTHORITIES, IS WORKING TO STEM THE FLOW OF PORNOGRAPHY IMPORTATION FROM THE SOURCE COUNTRIES. AS A RESULT OF CUSTOMS INVESTIGATIVE EFFORTS, MANY CHILD PORNOGRAPHERS HAVE BEEN IDENTIFIED AND ARRESTED.

CONCLUSION

CUSTOMS IS A MULTI-MISSION AGENCY. IT BEARS THE TREMENDOUS RESPONSIBILITY OF THWARTING TRADE IN ILLICIT NARCOTICS WHILE AT THE SAME TIME FACILITATING LEGITIMATE INTERNATIONAL TRADE IN MERCHANDISE. CUSTOMS PLANS TO USE THE RESOURCES AT ITS DISPOSAL AND THE MANAGEMENT INNOVATIONS DISCUSSED TODAY TO RECONCILE THESE TWO SOMETIMES CONFLICTING GOALS.

THIS CONCLUDES MY INTRODUCTORY STATEMENT. WE ARE AVAILABLE TO DISCUSS THE DETAILS OF THE REQUEST AND ANSWER YOUR QUESTIONS AND THOSE OF THE SUBCOMMITTEE MEMBERS.

STATEMENT OF ALLAN MENDELOWITZ, SENIOR ASSOCIATE DIRECTOR, U.S. GENERAL ACCOUNTING OFFICE, WASHINGTON, DC, ACCOMPANIED BY LAMONT J. KINCAID, SENIOR PROJECT MANAGER, GAO; JOSEPH NATALICCHIO, SENIOR PROJECT MANAGER, GAO; JAMES BUROW, SENIOR PROJECT MANAGER, GAO

Mr. MENDELOWITZ. Thank you, Mr. Chairman. With your permission, I would like to invite two additional members of my staff to the table.

Senator MATSUNAGA. For the record, will you state the names of those who are your assistants?

Mr. MENDELOWITZ. Certainly. I am happy to introduce, on my left, Mr. James Burow, who is a Senior Project Manager with the General Accounting Office and the Site Senior at our Customs Audit Site; and on my right, Mr. Lamont Kincaid and Mr. Joseph Natalicchio, both of whom are Senior Project Managers working in the area.

Senator MATSUNAGA. Welcome to the committee.

Mr. MENDELOWITZ. Thank you. With your permission, I will submit a full statement for the record, and read a shortened statement, in the interest of time.

Senator MATSUNAGA. Without objection, your full statement will appear in the record as though presented in full.

Mr. MENDELOWITZ. In light of the proposals to reduce the Customs' staffing levels, we are happy to be here to discuss the results of our reviews regarding the Customs Service's efforts to enforce laws and regulations governing imports. I will focus my remarks today on the adequacy of Customs' cargo examination process and on Customs' efforts to protect intellectual property rights. My full statement also includes a summary of our work on the role of Customs' import specialists. I would like to begin by discussing the quality of Customs' cargo examinations.

In September 1986, we issued a report based on work we performed at the request of Senator D'Amato on how well the Customs Service examines cargo entering the United States. The report—"Cargo Imports: Customs Need to Better Assure Compliance With Trade Laws and Regulations"—concluded that the manner in which Customs inspectors conduct physical examinations of cargo does not ensure compliance with trade laws and regulations.

The Customs Service is responsible for ensuring that imported merchandise complies with the trade laws of the United States. Customs relies on physical examinations of the merchandise by inspectors as the primary means of ensuring compliance.

We observed 635 examinations at the New York Seaport and JFK Airport and 234 examinations at seven other ports of entry. In sum, we found that, regardless of the reasons for examining the cargo or the size of the shipment, the inspectors usually examined only one or two packages selected from the most accessible locations in the shipment—and we are talking here about shipments that come in very large cargo containers, 20 feet long, 30, 40 feet long, holding as many as thousands of packages. Often, non-Customs employees, such as an employee of the warehouse or representative of the purchaser, were allowed to select the merchandise

that was going to be examined. And, usually, the Customs inspectors did not verify that the quantity in the shipment was equal to the amount declared by the importer.

Since 1981, Customs has used a selective inspections system which enables inspectors to physically examine shipments identified as high risk; that is, those most likely to involve violations. The remaining shipments are released without physical examination. According to Customs officials, about 20 percent of the shipments are selected for physical examinations. However, the reasons the inspectors were given for performing the examinations did not seem to affect how the examinations were conducted. We observed that inspectors usually did not seek full access to cargo shipments and examined only a few packages of the most accessible merchandise in a given shipment. Even when all cargo was fully accessible, inspectors usually only examined the most conveniently located merchandise.

As I said, we also observed that non-Customs employees, such as warehouse workers or carrier representatives, were allowed to select the specific packages to be examined. Inspectors are required to ascertain whether the quantities of merchandise entering the country agree with those on the invoices in order to help protect revenue and to enforce quota requirements. In 194 of the 289 examinations we observed at the New York Seaport, and 277 of the 346 examinations we observed at JFK Airport, inspectors did not count, weigh, or estimate the merchandise quantities.

We agree with the initiative to improve cargo processing by a selectivity system, but whether it will enhance importer compliance with trade laws depends on the thoroughness of Customs' physical examinations. The results of these examinations and information from other sources provide Customs with the basis for selecting which shipments to physically examine in the future and which to release without physical examinations. We observed 177 examinations of first-time importers. Now, first-time importers are very important to the selectivity process because there is no history or track record with respect to how reliable they are. The shipments had an average size of 318 packages or items at the New York sites. In 64 percent of these examinations, the inspectors examined at most only one package out of the full shipment.

In light of these problems, we recommended that Customs develop specific policy and procedures for inspectors to use for determining the intensity of cargo examinations. The degree of intensity should be based on the risk of the shipment and the purpose of the examination.

To see how the inspection process affected the ability of Customs to enforce U.S. trade law and regulations, we looked in depth at the protection of intellectual property rights. Our report on Customs' protection of intellectual property rights provides the result of surveys we conducted to obtain the perspectives of firms that have sought Customs Service assistance to protect intellectual property rights from counterfeit or infringing imports.

We conducted separate surveys of firms that have recorded registered trademarks and copyrights with Customs and those that have obtained exclusion orders under section 337 of the Tariff Act of 1930. Of the firms responding to our survey, about 79 percent of

those that had recorded their trademarks or copyrights with Customs stated that counterfeit and infringing goods continued to enter the country. And about 87 percent of these firms reported that the counterfeit and infringing goods did at least some damage to sales. About 65 percent of the firms responding to our survey that obtained section 337 exclusion orders stated that counterfeit and infringing goods covered by the exclusion orders continued to enter the country. And about 73 percent of these firms reported that the counterfeit and infringing goods did at least some damage to sales.

Survey respondents pointed to staffing levels as the primary limitation on Customs' ability to protect intellectual property rights. The survey respondents supported three proposals for strengthening the Customs' efforts, and we made appropriate recommendations in our reports.

The CHAIRMAN. Let me ask you, Mr. Mendelowitz, what happens to the morale of the employees in that kind of a situation, where we see them cutting back and then rushing out to re-hire. Where is the continuity of service and the experienced personnel there?

Mr. MENDELOWITZ. Respondents to our surveys generally had very positive things to say about Customs employees. Firms indicated that, when they brought information regarding potential shipments of counterfeit goods to Customs' attention, Customs' personnel were willing to help, were effective, and tried to the best of their ability to be responsive. I would say, based on those responses, Customs is a service that has traditionally had high morale.

But, while we haven't surveyed the Customs inspectors with respect to morale at this point, I think quite clearly that budget cuts, staffing reductions, and increased workloads that reduce the ability of employees conscientiously trying to do their job has to have a negative impact on morale.

The recommendations that we made include a proposal that the International Trade Commission authorize and direct Customs to seize goods and cause them to be forfeited when enforcing exclusion orders, that the time spent for Customs to notify the ports regarding newly-recorded trademarks and copyrights that should be protected can be substantially reduced and that, given the importance of intelligence information, that Customs intensify its efforts to enlist the support of intellectual property rights owners in identifying shipments containing counterfeit or infringing goods.

This concludes my summary statement and we would be happy to try to answer any questions you might have.

The CHAIRMAN. I'm sorry I didn't hear all of your testimony, Mr. Mendelowitz, but I was down at a meeting at the White House with the President on trade. It went a little longer than I had anticipated.

When we were holding hearings down on the Mexican border in Brownsville, we had a statement by one of the witnesses that he had to travel 200 miles to Laredo to get some decisions concerning products being brought in. Isn't that really an impediment to trade; doesn't that delay our traffic across that border?

Mr. BUROW. Mr. Chairman, I believe you are talking about import specialists.

The CHAIRMAN. That's correct.

Mr. BUROW. These would be the people who the importers come to and ask whether the imports that they are about to bring into the country are properly classified and what duties are going have to be paid. Customs has been taking the position recently that it doesn't really matter exactly where those import specialists are located. They try to keep them in their district offices, at a central location because of the knowledge that they need to have in order to answer importers' questions.

I think your statement is absolutely correct; some of these people do have to travel great distances in order to talk to import specialists but, on the other hand, there are people, I'm sure, in Laredo who will also use their services.

I may have to correct this statement if I'm wrong but I think there are only two or three import specialists in Laredo.

The CHAIRMAN. I think that's right.

Mr. BUROW. You could move some of them other places along the border, and then you would have one in Laredo. Now, I don't know whether that one individual would be able to handle the workload at Laredo or not.

The CHAIRMAN. Does that mean that we should talk about minimum staff levels? Should we legislate a thing like that? It seems rather awkward to me for us to start legislating staff levels.

Mr. BUROW. Well, I think you are absolutely right. And it is hard for me to sit here and try to say how many there should be at any particular location. I think that we need to ask whether the public is being served and to what extent are they being served. I think that you will find that the majority of the importing community finds that the Customs Service does respond to their requests.

There are those exceptions to that, however, who seem to be the ones that write letters.

The CHAIRMAN. Well, I must say that anything that delays that trade across that border hurts the economy of both countries.

Mr. BUROW. That's right.

The CHAIRMAN. It is a matter of very serious and deep concern to me, and the reason for these hearings and the hearings we had on the border, to further understand the impact of it.

Gentlemen, let me say, that we will take your entire statement into the record. And I would like to now excuse you and call Mr. Banks, the Deputy Commissioner. If you would come back to the stand, please.

[The prepared written statement of Mr. Allan Mendelowitz follows:]

United States General Accounting Office

GAO Testimony

FOR RELEASE ON
DELIVERY
EXPECTED AT
10:00 A.M.
FEBRUARY 25, 1987

THE U.S. CUSTOMS SERVICE'S EFFORTS TO ENFORCE IMPORT LAWS AND REGULATIONS

STATEMENT OF
ALLAN I. MENDELOWITZ
SENIOR ASSOCIATE DIRECTOR
NATIONAL SECURITY AND INTERNATIONAL
AFFAIRS DIVISION

BEFORE THE

SENATE COMMITTEE ON FINANCE

T-NSIAD-87-5

SUMMARY OF STATEMENT

GAO discusses Customs' ability to enforce laws and regulations governing imports. It summarizes three reports concerning the adequacy of Customs' cargo examination process, the ability of Customs to protect intellectual property rights, and the role of import specialists in entry processing.

Cargo Examinations

Customs relies on physical examinations of imported merchandise as the primary means for ensuring compliance with U.S. trade laws. We found that the manner in which physical examinations of import shipments are conducted at the New York Seaport and John F. Kennedy Airport does not ensure that importers are complying with importation laws and regulations. We found similar conditions at other ports of entry where Customs has instituted innovative techniques for cargo inspection. In addition, the manner in which examinations are performed does not provide reliable information for determining whether similar shipments should be examined in the future. To improve the quality of examinations and to better ensure importers' compliance, inspectors need policy and procedures that establish criteria for basing the intensity of examinations on the potential risks of the shipments and purposes of the examinations.

Protection of Intellectual Property

GAO surveyed firms that enlisted Customs' assistance in protecting their intellectual property rights (i.e, patents, trademarks, and copyrights) from foreign infringement. Many of the responding firms indicated that imports of goods that counterfeit or infringed the intellectual property rights protected by Customs continued to enter the country. Respondents added that these imports damaged their sales and consumer confidence in their products. They suggested that, to enhance Customs' efforts to protect intellectual property rights, (1) the ITC be authorized to direct Customs to seize goods and cause them to be forfeited when enforcing exclusion orders, (2) Customs shorten the 2 to 3 months it takes to inform the ports of a newly recorded trademark or copyright, and (3) Customs intensify its efforts to enlist the support of intellectual property rights owners in identifying shipments containing counterfeit or infringing goods.

The Role of Import Specialists

Like Customs inspectors, import specialists have a major role in protecting revenue and enforcing import laws. GAO's March 1985 report concluded that most entries submitted to Customs and reviewed by import specialists at the New York Seaport and Los Angeles District were correct. When changes were made, the amount additionally assessed was slightly more than the amount refunded to the importer.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the results of reviews we have conducted regarding the U.S. Customs Service's efforts to enforce laws and regulations governing imports. I will focus my remarks today on the adequacy of Customs' cargo examination process, Customs' efforts to protect intellectual property rights, and the role of Customs' import specialists. I would like to begin by discussing the quality of Customs' cargo examinations.

CARGO EXAMINATIONS

In September 1986, we issued a report based on work we performed at the request of Senator Alphonse D'Amato on how well the Customs Service examines cargo entering the United States. The report--Cargo Imports: Customs Need to Better Assure Compliance With Trade Laws and Regulations (GAO/GGD-86-134)--concluded that the manner in which Customs inspectors conduct physical examinations of cargo does not ensure compliance with trade laws and regulations. Although our review primarily focused on the New York Seaport and the John F. Kennedy (JFK) Airport, it appears likely that the quality of Customs' examinations at seven other ports we visited is similar to that in New York. It is important to note that some of these ports use automated systems for keeping track of imports, selectivity systems for identifying high-risk shipments, and centralized examination stations. Customs believes that these initiatives have resulted in a more cost effective, efficient, and

[illegible] margin maintenance and also enabling it to handle the increasing workload.

Background

The Exercise Service is responsible for managing their operational requirements and the trade case of the United Kingdom. Exercises outline the physical maintenance of the warfighter by responsible as the primary means of ensuring compliance. Over 8,000 Exercises requirements are responsible for performing over 200 procedures of two or more 200 grains of money. During fiscal year 1998, these requirements were responsible for ensuring that 1.2 million shipments (an increase of 87 percent over fiscal year 1979) were in compliance with the agreed requirements. Most of the warfighting assets the United States is undertaking [illegible] two, range delays, or logistic variance ensuring it [illegible] goods. These exercises can be in in the many and the field thousands of packages.

We observed inspections and agencies range maintaining range for T Base as three improvements suggested to the the Air Force Logistics and three as the 200 Program Executive Office and Defense (DOD) [illegible] 1998. We also made a limited number of observations in order to improve [illegible] [illegible] the processes for physically maintaining range data systems in Army Fort.

Savannah, Georgia; Laredo and Houston, Texas; and Blaine and Seattle, Washington.

Observations of Cargo Examinations

We observed 635 examinations at the New York sites and 214 at the seven other ports of entry. We believe the process for examining cargo is superficial and cannot ensure that importers are complying with import laws and regulations. Regardless of the reason for examining the cargo or the size of the shipment, the inspectors

--usually examined one or two packages selected from the most accessible locations in the shipment,

--often allowed non-Customs employees to select merchandise to be examined, and

--usually did not verify that the quantity in the shipment was equal to the amount declared by the importer.

Since 1991, Customs has used a selective inspections system which enables the inspectors to physically examine shipments identified as high risk (i.e. those most likely to involve violations) the remaining shipments are released without physical examination. According to Customs officials, about 10 percent of the shipments are selected for a physical examination. Shipments are identified as high risk if, among other things, (1) inspectors have not previously processed merchandise from the importer and do not have sufficient information to determine the extent of the importer's voluntary compliance or (2) the shipment is suspected

of one or more violations such as exceeding prescribed quotas or not adhering to trademark or copyright regulations. Shipments are also randomly selected to guarantee that every importer and commodity are examined at intervals to ensure the integrity of the selective process.

The reasons the inspectors were given for performing the examinations did not seem to affect how the examinations were conducted. We observed that inspectors usually did not seek full access to cargo shipments and examined only a few packages of the most accessible merchandise in a given shipment. Even where all cargo was fully accessible, inspectors usually examined the most conveniently located merchandise. For example, for 211 examinations at the New York Seaport, the inspectors did not have full access to the cargo; i.e., part of the merchandise would have to be moved in order to examine other parts of the shipment. For 159 (75 percent) of these 211 examinations, the inspectors selected the packages most accessible and did not request that the merchandise be moved for greater access. In 92 percent of the examinations we observed at the JFK Airport and 86 percent at the New York Seaport for which the shipments contained more than 10 packages, the inspectors examined no more than 2 packages or items. At JFK Airport, we also observed that non-Customs employees, such as warehouse workers or carrier representatives, were allowed to select the specific packages to be examined.

Inspectors are required to ascertain whether the quantities of merchandise entering the country agree with those shown on the invoices in order to help protect revenue and to enforce quota requirements. In 194 of the 289 examinations we observed at the New York Seaport and 277 of the 346 examinations we observed at JFK Airport, inspectors did not count, weigh, or estimate the merchandise quantities.

We also observed Customs' special enforcement teams which are established to ferret out narcotics violations and commercial fraud. These teams generally selected the merchandise to be examined from various parts of the shipment and opened more packages in the shipment, but they examined far fewer shipments than did the other inspectors.

Customs Selectivity System

Customs' selectivity system is intended to identify high-risk shipments for physical examinations. The remaining shipments are released without physical examinations. We agree with Customs' initiative to improve cargo processing by using a selectivity system, but whether it will enhance importer compliance with trade laws depends on the thoroughness of Customs' physical examinations. The results of these examinations and other sources provide Customs with the basis for selecting which shipments to physically examine in the future and which to release without physical examinations.

To illustrate, Customs examines shipments by first-time importers because it lacks sufficient information to determine whether the importers voluntarily comply with U.S. trade requirements. We observed 177 examinations of first-time importers with an average shipment size of 318 packages or items at the New York sites. In 64 percent of these examinations, the inspectors examined at most only one package. Once the first-time importer's shipment is physically examined, future shipments by the same importer are selected from time to time for physical examination to evaluate the integrity of the importer. These random examinations are performed in the same manner as the other examination. In 24, or 73 percent, of the 33 random examinations we observed, the packages selected for examination were at the rear door of a container or at the top of a stack of packages.

Inspectors Need Better Guidance

The high volume of merchandise requiring examination, the need to keep commerce moving, and the lack of specific guidelines for inspectors to follow have reduced the quality of Customs' examinations. We recommended that Customs develop specific policy and procedures for inspectors to use for determining the intensity of cargo examinations. The degree of intensity should be based on the risk of the shipment and the purpose of the examination. In commenting on our report, Customs stated that the new initiatives it has underway, including the selectivity system and centralized examination facilities, should relieve the

problems we identified. Whether these and other initiatives will enhance Customs' assurance of importer compliance with trade laws, however, depends on the thoroughness of Customs' physical examinations.

CUSTOMS SERVICE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

In our May 1986 report on Customs' protection of intellectual property rights--International Trade: U.S. Firms' Views on Customs' Protection of Intellectual Property Rights (GAO/NSIAD-86-96)--we provide the results of a survey we conducted to obtain the perspectives of firms that have sought Customs Service assistance to protect their intellectual property rights from counterfeit and infringing imports. We released this report to the Subcommittee in May 1986.

Background

Protection of intellectual property rights against counterfeit and infringing imports is one of the Customs Service's many responsibilities. Firms use two separate methods to obtain Customs' assistance in protecting intellectual property rights.

1. Recordation: Owners of trademarks and copyrights that have previously been registered with the federal government can record such rights directly with the Customs Service for a fee of $190. In protecting trademarks and copyrights, Customs can exclude shipments of counterfeit or infringing

goods from entering the country and, in certain instances, can seize such shipments, which may be forfeited to the government. Customs officials estimate that they are currently responsible for protecting 7,000 to 8,000 trademarks and copyrights.

2. Section 337 exclusion orders: Owners of other types of intellectual property rights, most notably patents, who want Customs' assistance must first obtain exclusion orders from the International Trade Commission. To obtain such an order, the owner must participate in a year-long (18 months in "complicated" cases) adversarial proceeding under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in which the owner must demonstrate, among other things, that a valid and enforceable intellectual property right has been infringed by imports. Should the Commission find in favor of the firm bringing the complaint, it can, among other things, instruct the Customs Service to exclude counterfeit and/or infringing goods from entering the country. Exclusion orders give Customs the authority to exclude, but not seize, shipments of goods that counterfeit or infringe the intellectual property rights covered by the orders. As of April 1985, Customs was responsible for enforcing 43 exclusion orders.

We conducted separate surveys of firms that have used each method. To obtain the perspectives of firms on the Customs

Service's ability to stop imports of goods that counterfeit or infringe trademarks and copyrights, we surveyed firms that had recorded such rights with Customs from January 1, 1980 to April 10, 1985. Our universe included all firms, or their outside legal counsels, that had recorded trademarks or copyrights with Customs and alleged that the rights were being infringed at the time of the recordation. To obtain the perspectives of firms on Customs' ability to enforce section 337 exclusion orders, we surveyed firms that had obtained exclusion orders in section 337 proceedings initiated since January 1975.1 Our universe included all firms that had obtained exclusion orders to protect intellectual property rights in cases starting January 1, 1975, with all litigation concluded as of April 25, 1985.

Customs Not Stopping Counterfeit/Infringing Goods

The majority of respondents to our surveys reported that counterfeit and infringing goods continued to enter the country after they had enlisted the assistance of the Customs Service, causing appreciable losses in sales and in consumer confidence in their products. However, the large majority of firms that provided assistance to Customs, usually information on incoming shipments containing counterfeit or infringing goods, reported

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1This survey was part of a larger effort that also addressed many aspects of the International Trade Commission's administration of section 337 proceedings.

that they were satisfied with Customs' response to the information provided.

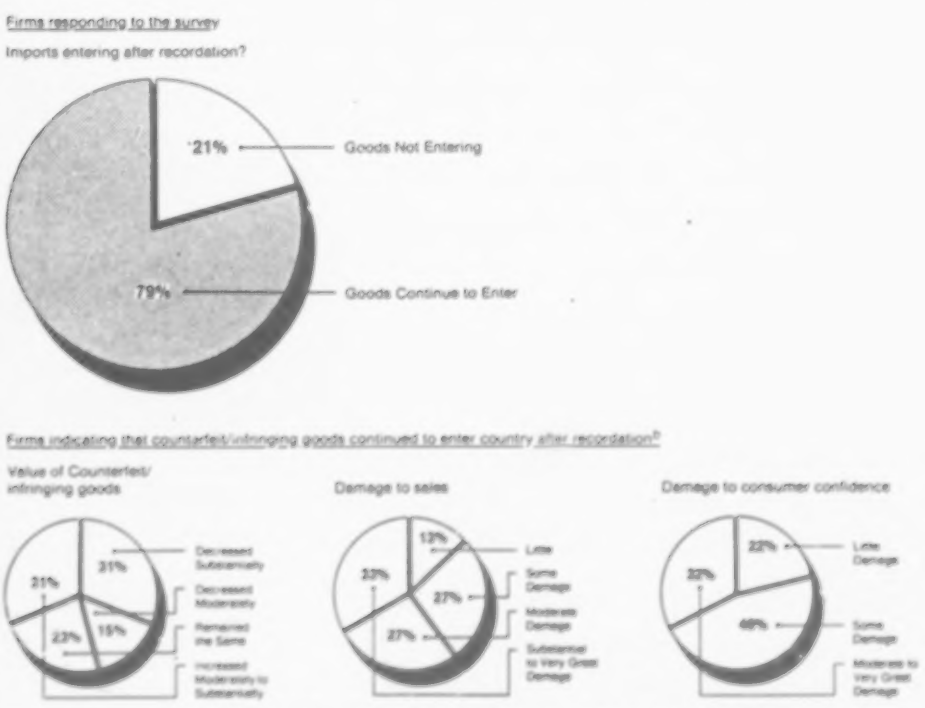
Given the relatively small fee for recording registered trademarks or copyrights with the Customs Service, a number of the respondents to our survey on Customs' recordation system indicated that they did not have high expectations regarding Customs' ability to protect these rights. The following comment received from one survey respondents typifies this opinion.

> "In view of the huge task facing Customs and since the relative expense [of a] client's using Customs is not substantial, anything which Customs can perform to help a client is considered . . . of substantial benefit.

As shown in figure 1, of the firms responding to our survey on Customs' recordation system, nearly 80 percent of those that indicated they had a basis to judge reported that counterfeit and infringing goods continued to enter the country after recordation. Of these firms, over half reported that the value of counterfeit and infringing imports at least remained the same, with about 31 percent of them stating that the level actually increased. About 87 percent of the firms indicating that counterfeit and infringing goods continued to enter the country reported that the counterfeit and infringing goods did at least some damage to sales, with 60 percent characterizing the loss in sales as moderate to very great. Survey respondents valued the sales losses caused by these imports at less than $100,000 to $15 million. Similarly, about 78 percent of these firms reported

that infringing imports appreciably damaged consumer confidence in their products.

Figure 1: Selected Responses From Recordation Survey[a]



[a]Figures do not include those firms indicating that they had no basis to judge.

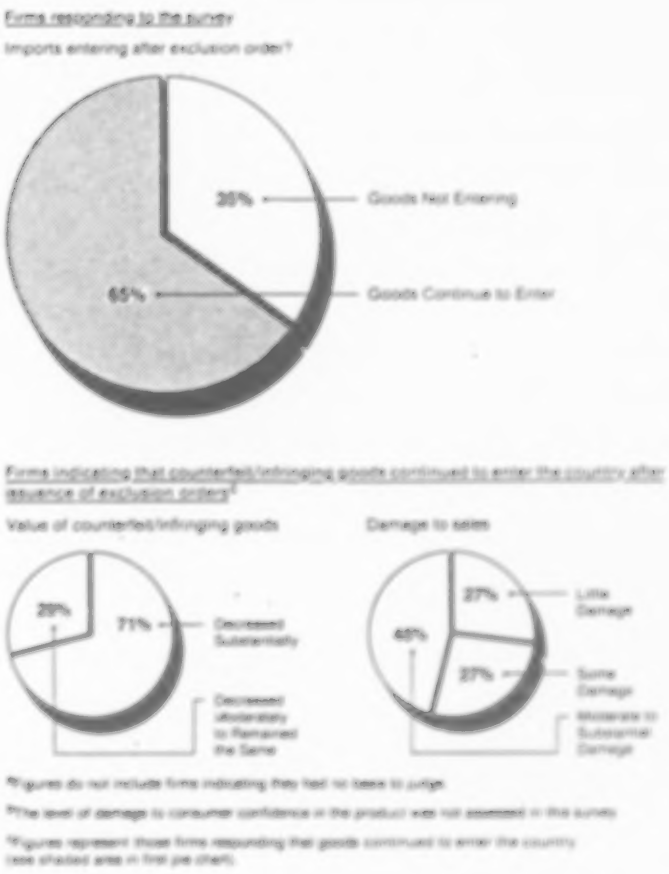
[b]Figures represent those respondents indicating that goods continued to enter the country (see shaded area in the first pie chart).

Firms initiating section 337 proceedings do so with the objective that, should they win, the exclusion orders will effectively stop the counterfeit and/or infringing goods from entering the country. The president of one such company characterized an exclusion order as a "wall around the country." The high cost of litigating section 337 cases--generally between $100,000 and $1 million, with a few costing over $2.5 million--contributes to this expectation.

Although some firms voluntarily stop importing counterfeit or infringing goods covered by exclusion orders, others ignore the orders, placing the enforcement burden on Customs' port inspectors. An exclusion order often is not an effective deterrent to importing such goods, since Customs cannot seize these goods. Foreign infringers who have shipments stopped by Customs are required only to re-export the goods and, thus, lose only the shipping charges. Indeed, foreign infringers have been known to "port shop," that is, ship the counterfeit or infringing goods from port to port until they gain entry. We also understand that foreign infringers sometimes repackage the goods that are returned to the country of origin and attempt to export them to the United States at a later date. A number of knowledgeable business officials commented that protection of intellectual property is uneven from port to port.

As shown in figure 2, of the survey respondents who indicated they had a basis to judge, over 65 percent reported that counterfeit and infringing goods covered by the exclusion orders continued to enter the country after the orders were issued. About 71 percent of these firms reported substantial decreases in the value of such imports, in some cases due to the willingness of importers to voluntarily abide by the International Trade Commission determinations. Approximately 29 percent reported little change. About 73 percent of the firms indicating that imports of counterfeit and infringing goods continued to enter the country reported that these imports damaged their sales to at least some extent, with about 46 percent of them stating that their sales were hurt to a moderate or substantial extent. Survey respondents valued the sales losses caused by these imports from less than $100,000 to $5 million. Company officials told us that the continued presence of illegitimate goods in the domestic marketplace, sometimes in a form virtually indistinguishable from the original, also caused consumers to lose confidence in the authentic products.

Figure 2: Selected responses From Section 337 Surveys,b



[a]Figures do not include firms indicating they had no basis to judge.

[b]The level of damage to consumer confidence in the product was not assessed in the survey.

[c]Figures represent those firms responding that goods continued to enter the country (see shaded area in first pie chart).

Several firms complained that Customs' inability to enforce their exclusion orders undermined the effectiveness of section 337 as a trade remedy. One firm commented that:

> "There was no [Customs] enforcement whatsoever . . . [For] the time and money involved for a small firm like ours, the end result was of little benefit because of the lack of enforcement by the Customs Service."

Another stated that:

> "[W]e believe that the efforts and money expended to obtain the exclusion ruling from the [International Trade Commission] . . . certainly did not provide the protection we expected."

Because of the lack of enforcement and high cost, firms commented that they would not use section 337 again to deal with imports of other types of counterfeit or infringing products. One stated that:

> "There are now many of our products being copied identically. Because of the cost of the [International Trade Commission] case and the lack of enforcement by Customs it doesn't seem fruitful to take these other items to the [Commission]. Yes, we are being hurt and sales are suffering and people are being laid off."

Customs' performance reportedly improves when it is assisted by the owner of the intellectual property right. Over 25 percent of the firms receiving exclusion orders and 35 percent of the firms that had recorded trademarks and copyrights undertook independent investigations and provided the results to Customs. Such information could include the names of companies importing counterfeit or infringing goods or information on particular shipments of such goods. Nearly 80 percent of the firms that provided information to Customs and expressed an opinion were satisfied with Customs' response to the information provided. One firm commented that:

> "[illegible] to open corporations and officials [illegible] [illegible] and service. Employees, rights [illegible] to their interests or corporations' goods services and to individual services."

Another proposed rule:

> "Citizens corporate have information and procedures to be protected, employees shall information and procedures relations to employer."

Rejecting Employment's Rights to Profit
Corporations as Employees Protected

Employees to work overtime employment right regard for the work of your employers and generally outside the employment and negligence of your decisions. Performing their commerce, the free product that is bad. Taken ago should with the corporate rights and circumstances to being authorized by the business decision governments."

Employees' company protect to profiting as the private [illegible] or business' decision to protect corporate profits. And free service that "[illegible] to the business and [illegible] . . . but belongs of employees has service to know that operations results terms]." Whether stated that "[illegible] that business should be about to the business terminating and funding . . . to be different for business to [illegible] and customer information [illegible]." Will another recommended that "we need work relevant rights specific of quality of service need serve relevant corporations or the work profit." Finally, one free commercial that "the city operations to the

better enforcement of the laws by Customs is the lack and shortage of personnel."

Survey Respondents Suggest Ways to Strengthen Customs' Efforts

Survey respondents supported three proposals, two of which they volunteered, for enhancing the ability of Customs' present staff to protect U.S. intellectual property rights from counterfeit and infringing imports.

Over 90 percent of our survey respondents who expressed an opinion believed that authorizing the International Trade Commission to direct Customs to seize goods and cause them to be forfeited would improve Customs' ability to enforce section 337 exclusion orders. In our August 1986 report--International Trade: Strengthening Trade Law Protection of Intellectual Property Rights (GAO/NSIAD-86-150)--we recommended that Congress give the International Trade Commission such authority, which would be intended to strengthen the deterrent effect of the exclusion order. If such a proposal were to become law, infringers would not only face the prospect of losing shipping costs but also the possibility that Customs would seize and dispose of their entire shipments.

Several survey respondents suggested that Customs needs to shorten the 2 to 3 months it takes to inform the ports of a newly recorded trademark or copyright. A number of firms cited this

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delay as a major problem. One stated that "In my experience, it takes about 2-3 months to register a [copyright] with Customs. That is too long . . . piratical copies slip by Customs." During this period, counterfeit and infringing goods may continue to enter the country even though the intellectual property right is legally protected from the time Customs approves the application for recordation. Until port inspectors are notified, they have no knowledge that they are to protect a particular trademark or copyright from infringing imports. In some cases, 3 months may constitute a significant portion of the entire market life of a product. Some consumer goods, such as those marketed in conjunction with newly released movies, have very short market lives.

The survey responses also indicated that Customs could improve its performance by intensifying its efforts to elicit the support of intellectual property rights owners in identifying shipments containing counterfeit or infringing goods. This could be accomplished by providing an informational brochure or similar document to firms obtaining Customs assistance. Under current procedures, there is no formal mechanism for firms initiating section 337 proceedings to obtain any information from Customs. Firms recording trademarks or copyrights with Customs receive only confirmation letters and copies of the notices sent to the ports. As a result, they may not have realistic expectations of Customs' abilities or appreciate the need to provide assistance.

ROLE OF CUSTOMS' IMPORT SPECIALISTS

Our March 1985 report--U.S. Customs Service: Import Specialists' Duties and Reviews of Entry Documentation (GAO/GGD-85-45)--was undertaken at the request of the Subcommittee on International Trade, Senate Committee on Finance. Import specialists are responsible for determining whether importers and/or their brokers have properly classified and valued imported products, correctly calculated duties owed, and provided all data and documents required to admit merchandise into the country. Classification of imported goods determines the tariff rate and is the basis for enforcing quota and other merchandise restrictions.

We analyzed the results of import specialists' reviews of entry documents to ensure that the importers or their brokers had properly classified the imported product, correctly calculated duties owed, and provided the required documents. Our review was conducted at two of the largest Customs' districts--New York Seaport and Los Angeles District.

We concluded that most of the import documentation submitted to Customs and reviewed by import specialists were determined to be error free. The import specialists in New York found errors in 7 percent of the entries they reviewed while the import specialist in Los Angeles discovered errors in 4 percent of the entries reviewed. We also reported that errors discovered by import

specialists in fiscal year 1983 affecting duties and taxes resulted in $25 million in additional assessments compared to $22 million in refunds to importers.

We were asked to perform this review because the Subcommittee was concerned that Customs was deemphasizing its commercial operations. As I mentioned earlier, the number of shipments entering the United States increased 67 percent between 1979 and 1986. In fiscal year 1986, Customs had 927 import specialists' positions to process the workload, or about 299 fewer than in fiscal year 1979. Customs states that it is not deemphasizing commercial operations but is able to reduce the number of import specialists through increased use of technology, automation, and increased selectivity.

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Mr. Chairman, this concludes my statement. I would be happy to respond to any questions you have at this time.

Mr. BANKS. Mr. CHAIRMAN.

The CHAIRMAN. Mr. Banks, I was originally very much impressed with the Administration's statement about the war against drugs, and trying to stop drugs from coming across that border. I was born and reared on that border, and it is a long one, and it is obviously an unguarded one. There is an incredible amount of traffic going across there.

So, I was very pleased to see the Administration saying that they were going to do their utmost to try to interdict that drug traffic. Many doubt drug interdiction effort.

And now, you are talking about slashing personnel. I note you are requesting to postpone until next year $32 million already appropriated for air interdiction. Is the Administration serious about trying to stop drugs coming into this country? It seems totally contradictory to me, that on the one side you get the rhetoric and what we are going to do about it, and then you cut back, in effect, on the enforcement. Would you speak to that?

Mr. BANKS. Yes, sir. Mr. Chairman, we are indeed serious about enforcing the laws against illicit narcotics coming into this nation. And we have made a commitment within the budget that has been presented that indicates that we are not going to cut back on our enforcement commitment. We are going to retain levels that we have offered before, and that the primary reductions are going to be commercial.

The CHAIRMAN. How can you maintain that when you cut back on the personnel?

Mr. BANKS. There are going to be some reductions in the commercial areas to compensate for those reductions, in order to alleviate the deficit problem in the United States.

The CHAIRMAN. When you examine such a small percentage of those things coming in, isn't there obviously a greater chance that drugs will be introduced into this country?

Mr. BANKS. Mr. Chairman, in actual fact, we have increased the number of examinations along the southwest border. We are probably doing a better job than we have done before, in terms of interdicting narcotics coming across through Mexico.

The CHAIRMAN. Well, we were hearing just a moment ago from the General Accounting Office that a very small percentage of those things were inspected coming in. What is the percentage?

Mr. BANKS. Sir, the percentage that we are inspecting of general cargo coming into the United States is approximately 20 percent. Now, we are doing intensive inspections, 100 percent devaning, of approximately 2 to 3 percent of the ocean containers that come in. It is a judgmental issue as to the extent of an examination that is going to take place on any particular importation.

The CHAIRMAN. I've been through Customs a couple of times in recent weeks. Every time I go through I have some Customs officer pull me aside and say to me, you know, we are having a terrible time trying to do what work we have to do, and doing it responsibly. Don't let them cut us back more than they are.

Every year we have seen the Administration come in, and they call for large cutbacks in appropriations, personnel for the Customs Service, and every year the Congress restores it. Now what does that yo-yo effect do to the morale of your employees?

Mr. BANKS. Well, sir, there are always some questions. However, in the final analysis, we have indeed increased the number of Customs employees over the last few years. And, from a bottom-line effect, that is what they see.

The CHAIRMAN. And that's been because the Congress has insisted on it.

Mr. BANKS. That's absolutely been a factor, sir.

The CHAIRMAN. Two weeks ago, I held hearings in south Texas on the Customs Service. As I addressed this question to the gentleman from the General Accounting Office, I had a Customs broker in Brownsville who testified he had to travel 200 miles to go to Laredo to meet with an import specialist. That was because the import specialist in Brownsville had been eliminated.

Is that an example of the sort of streamlining that the Customs Office is bringing about? Does the budget call for that type of action? What do you suggest in the way of trying to provide services to the customer? Do you think that that's doing it?

Mr. BANKS. Mr. Chairman, we do have one import specialist in Brownsville. He has been sick for an extended period of time. We are trying to provide reasonable service out of our Laredo office.

There are individual and unusual circumstances in which it would require an importer or broker to physically visit with an import specialist. For the most part, these issues can be handled over the phone. Especially with our automated systems acting as a repository of information, there is less and less demand for physical visiting between importers and import specialists.

The CHAIRMAN. Well, he cited an example to me. I said, why can't you just handle it over the phone? Why do they have to see it? And he said, well you get into situations where there is a question of whether it was cut or whether it was trimmed. Frankly, I don't know the difference.

But he seemed to, and I guess the specialist in Customs is supposed to understand that. I'm not sure how many of those, but apparently enough to cause him real concern and real problems in doing his job.

Mr. BANKS. Well, sir, it is an individual circumstance, and admittedly, if he just returned from making a 200 mile trip, he would raise that issue. But once we have made that decision as to the proper classification of that merchandise, there would be no reason for that importer or broker to have to visit with an import specialist again on that issue.

The CHAIRMAN. Well, there was some question of his credibility because he talked about traveling up there at 55 miles an hour. [Laughter.]

Otherwise, I thought his testimony was quite good.

Mr. BANKS. We try to get responses back faster than that, Mr. Chairman.

The CHAIRMAN. Senator Danforth.

Senator DANFORTH. Mr. Chairman, I really don't have any questions. This is like watching the same movie every year, the hearing that we have on the Customs Service authorization. I think we could just rerun the whole film of it and have about the same thing happen. It is always the case that the Administration comes up with budget requests that we on the committee feel are inadequate.

I must say, I don't understand how we can maintain an effective drug program and an effective trade program, and at the same time cut the number of Customs Service personnel. I think that you, Mr. Chairman, have pretty well covered that. I'm sure that Mr. Banks has pretty well answered that, unless you have something else that you would like to add, Mr. Banks.

Mr. BANKS. Senator, we have introduced a lot of innovative procedures. Our automation system, our automated commercial system is making tremendous strides in being able to really identify high-risk cargo. The work that we are doing and the operational changes to centralize and to gain more productivity out of our people has led us to what we believe are greater and greater successes through the years.

Despite personnel issues, we feel we are doing a better job for the United States.

Senator DANFORTH. Thank you.

The CHAIRMAN. I have no further questions. Thank you very much.

Mr. BANKS. Thank you, Mr. Chairman.

The CHAIRMAN. That ends the hearing for today.

[Whereupon, at 11:22 a.m., the hearing was concluded.]

MANAGEMENT OF THE U.S. CUSTOMS SERVICE

THURSDAY, FEBRUARY 26, 1987

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The committee was convened, pursuant to notice, at 10:00 a.m. in room SD-215, Dirksen Senate Office Building, the Honorable Lloyd Bentsen (chairman) presiding.

Present: Senators Bentsen, Bradley, Riegle, Danforth, and Durenberger.

The CHAIRMAN. If you will cease your conversation, please, the hearing will begin.

These hearings are being held today concerning the Administration's proposal to cut the Customs Service. Two weeks ago, we visited the border between the United States and Mexico to learn how those who live in that area feel about the job the Customs Service is doing.

Now, these are people whose lives are touched by the Customs Service almost every day. They cross that border daily for their jobs, for education, and for commerce. At the same time, they depend on the Customs Service to protect their communities and their families from illegal drugs coming across that border and the devastating effects that can accompany drug usage.

What I heard in talking to those people was a great concern—a concern that traffic congestion along the border is creating a bottleneck to the flow of commerce between our two countries; a concern that the human resources Customs is devoting to border inspections are insufficient, either to facilitate commercial traffic or to prevent illegal traffic. I left there with a better understanding of their problems and a renewed belief that economizing on the Customs Service is a false economy.

Since taking office, this Administration has consistently proposed to reduce the manpower of the Customs Service, year after year. We in the Congress have refused to agree to those cutbacks, and we have acted to increase Customs' manpower every year since 1984, recognizing the importance of the Customs Service and the fact that its workload has nearly doubled since 1980.

The Administration has come forward again this year with a proposal to reduce the number of Customs employees. For fiscal year 1988, the Administration would cut back manpower by more than 13 percent from the levels Congress authorized for fiscal year 1987. Now, those drastic cuts are supposedly justified by a process of streamlining and automating the procedures used by the Service. But can it really be true that machines can so rapidly and totally

replace the skill and professional judgment of thousands of trained employees?

Automation of the Customs Service is good to the extent that it improves the Service's efficiency, but many of Customs' functions are human functions. For these, there is no substitute for people. My concern is that the dedicated men and women of the Customs Service—the front line troops in our war on drugs and Customs enforcement—are being ill-served by a drive to economize just for the sake of economy without a full understanding of the true cost of what is being done.

Today we will hear how other representatives of the business community feel about the job the Customs Service is doing. We will also hear directly from the employees of the Customs Service on how they feel about their ability to do their job.

Now, our first witness is the representative from the Customs Service employees, Mr. Robert Tobias of the National Treasury Employees Union. Mr. Tobias, if you would come forward, please?

STATEMENT OF ROBERT M. TOBIAS, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION, WASHINGTON, DC

Mr. TOBIAS. Good morning, Senator Bentsen. I appreciate very much the opportunity to testify at these most important hearings. I have a full statement which I would appreciate being inserted into the record.

The CHAIRMAN. It will be.

Mr. TOBIAS. Thank you. I believe that what you have seen along the border and what we have been saying for many years is that the Customs Service is an agency in crisis. This Administration, as you point out, seems to cut the number of positions each year. Congress has responded by restoring the cuts and adding positions, but OMB has ignored Congress, even when they have specifically mandated—as they did last year—a staffing level.

Second, the automated systems designed to assist the Customs Service have not increased efficiency, and most importantly, have not increased compliance. Third, qualified people are leaving the Customs Service in droves, the kind of people that have been the backbone of the Customs Service.

Fourth, as you might expect in this kind of a situation, the morale of those who remain is abysmal. Fifth, you will find in our testimony on Table 2 that commercial fraud is still increasing each year, while at the same time the number of entries we examine is declining and the amount of merchandise we examine is declining. So, our enforcement efforts are declining at a time when commercial fraud is increasing. Sixth, we are losing an ever-increasing amount of revenue we could otherwise recover. And seventh, the drug problem is not abating; it is increasing.

The Customs Service lacks the people and a plan to efficiently carry out its mission. The solution we suggest, first, is in the area of people and in planning. We suggest that Congress mandate the restoration of the positions sought to be cut in 1987—about 2,000—and we urge that Congress add an additional 2,000 positions. It would cost approximately $150 million next year, and we urge that 2,000 positions be added in 1989 and 1990, for a total of $450 mil-

lion. We urge that Congress appropriate that $450 million out of the commercial operation user fees, the 0.22 percent user fee that has been instituted. Until Congress acts, the money won't be appropriated and it won't be used.

We urge that that $450 million be an addition to the $500 million that would be necessary to carry out the general operations. We urge that Customs be mandated to create a five-year plan, which would include such things as a goal of 70 percent of the entries being reviewed by import specialists; 25 percent of the fraud referrals from import specialists be examined by special agents; and that there be a study of the automated systems which have promised so much and delivered so little.

We also urge that in the management area GAO be asked to review the Customs five-year plan. I recognize, Senator Bentsen, that what we are urging is certainly different from the way this committee treats most agencies. But I think the history of the management record of the Customs Service over the last six years requires some extraordinary efforts and extraordinary Congressional oversight, and that is why we are urging this drastic solution in mandating staffing levels, in mandating the areas where they would be filled, and also mandating the kind of a five-year plan which would allow the Congress to understand where the Customs is heading, as opposed to reacting on a crisis-by-crisis basis.

Again, I want to thank you for allowing me to testify, and I will be prepared to answer any questions you might have about the summary I have just given you or the full testimony we have provided.

The CHAIRMAN. Mr. Tobias, I can well recall my own personal experience in business, when I tried to bring out coordination between various facets of my business. I was able to do it, but there were a lot of glitches along the way and a lot of problems along the way.

Mr. TOBIAS. The problem that we see is that the programs that were instituted were instituted without a great deal of long-range planning and long-range thought. They didn't have goals in mind and instead were an attempt to deal with the short staff position in which the Administration put the agency. So, instead of really having a concept of what the automation would do and how it would interrelate with the Customs employee, we don't have that.

The CHAIRMAN. Surely, there must have been some kind of management study as to when it would come on stream, how much of it would be a particular point in the transfer, and how they would phase some people out, or if they would try to keep those people and give the kind of service from the increased traffic that was necessary—surely, they have some plan that has been shown to you.

Mr. TOBIAS. Senator, there is no overall automation plan in the Customs Service that I am aware of. There are four or five programs that have been developed that are virtually independent without the overall coordination that would be necessary to put together a program to coordinate the role of the Customs inspector with the role of the Customs import specialist.

The CHAIRMAN. Is this an in-service——

Mr. TOBIAS. Yes, sir.

The CHAIRMAN. And they also called outside technicians to consult on it?

Mr. TOBIAS. Not to my knowledge.

The CHAIRMAN. It would be very unusual if the Service had that type of technical qualifications within their own employees?

Mr. TOBIAS. I think, as I say, it is one thing when we are talking about the technical expertise; but at root——

The CHAIRMAN. I am talking about automation.

Mr. TOBIAS. I am talking about the lack of a plan. What is it that we want to do in 5 years? And as a businessman, I am sure that the greatest technician in the world can't supply a program if you don't tell that technician what it is you want to do in 5 years, and that is what is lacking.

The CHAIRMAN. But if you were going to make a major change in the system, it would be highly unusual for any agency to have within its own ranks people that had that level of competence because it is not a continuing thing, is it? We are talking about a major revolution in the way services are handled within that agency. I will talk to some more Customs people, but if you can find out anything that buttresses what they have done in the way of organizing jobs—if there really is some long-range planning—you don't think they have it and you don't know of any?

Mr. TOBIAS. No, I don't believe it exists.

The CHAIRMAN. That is hard to accept.

Mr. TOBIAS. That is why we are urging mandating the creation of a program that lasts from budget cycle to budget cycle.

The CHAIRMAN. Now, you said there has been a wholesale leaving of experienced and knowledgeable people from the Service. What do you have to back that up?

Mr. TOBIAS. We will supply you with the turnover statistics, but what I am talking about is the turnover among those people who have been around and who are trained, particularly——

The CHAIRMAN. That is what I am interested in. I am talking about the experienced people.

Mr. TOBIAS. The people who have been around for more than 5 years, the people in the 10 to 15 year group; that is particularly true among the specialists.

The CHAIRMAN. Now, are these people at the point of reaching retirement?

Mr. TOBIAS. Oh, no. I am not talking about retirement.

The CHAIRMAN. Or are these mid-career people?

Mr. TOBIAS. Yes, mid-career people; I am not talking about the retirement. I am talking about people who are leaving because they are doing other things.

The CHAIRMAN. Do you have any way of evaluating the effect on the morale? Is that totally subjective——

Mr. TOBIAS. Yes. That is based on the travels that I do around the country as the representative of the Customs employees. There is no formalized study with some sophisticated poll that has been taken.

The CHAIRMAN. I am certainly not opposed to modernizing the system and trying to meet the additional load by additional automation and improving their procedures. What I am concerned about is a great loss in service in the process of trying to bring this

about and a disruption in the morale of the employees and their not knowing what they can count on or what the plans are.

Mr. TOBIAS. The system that ought to be in place is a system that is interactive. In other words, where information is available and Customs employees make decisions based on the information that is available. You heard the testimony of GAO yesterday on how the system just doesn't work. That was the major technical automation innovation that Customs was saying would allow it to do more with less, and the GAO study said that it is an abysmal failure.

The CHAIRMAN. I think the system properly put in would allow you to do more with less; the problem is one where you have had a great increase in the amount of work and the amount of trade and the amount of commerce. And sometimes you have to hold the number of people you have and add the automation just to be able to take care of this much more work.

They don't seem to meld it together at all well, but I think they are still trying.

Mr. TOBIAS. We think not.

The CHAIRMAN. Senator Durenberger, do you have any questions of the witness?

Senator DURENBERGER. No questions, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Mr. TOBIAS. Thank you, Senator Bentsen.

The CHAIRMAN. Now, we will have a panel, and the members of that panel will be Mr. Harry Lamar of the Joint Industries Group; Mr. Bruce Wilson, Director of the American Association of Exporters & Importers; and Mr. J.H. Kent, the Washington Representative of the National Customs Brokers & Forwarders Association of America.

Mr. Lamar, if you would proceed.

[The prepared written statement of Mr. Tobias follows:]

STATEMENT
OF
ROBERT M. TOBIAS
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION

TO THE

COMMITTEE ON FINANCE
UNITED STATES SENATE
HON. LLOYD BENTSEN, CHAIRMAN

MANAGEMENT OF THE U.S. CUSTOMS SERVICE

WASHINGTON, D.C.

FEBRUARY 26, 1987

1730 K Street, N.W. • Suite 1101 • Washington, D.C. 20006 • (202) 785-4411

Mr. Chairman and Members of the Subcommittee:

I am Robert M. Tobias, National President of the National Treasury Employees Union. NTEU is the exclusive representative of over 120,000 Federal workers, including all employees of the U.S. Customs Service worldwide. I am accompanied by Patrick Smith, NTEU Director of Legislation, and Paul Suplizio, legislative consultant.

I appreciate the opportunity to participate in this Subcommittee's oversight of Customs operations, and to discuss our recommendations for Customs modernization and the Administration's budget request for Fiscal Year 1988.

The U.S. Customs Service is an agency in crisis. Billions of dollars in illegal imports are entering each year, commercial fraud in steel, textile and electronics is growing, and extensive violations of product marking, trademark, and copyright laws are continuing. A thriving trade in counterfeit goods, estimated to be on the order of $15 billion a year, is stealing our intellectual property and endangering the health and safety of our citizens.

Enhancing Voluntary Compliance With Our Trade Laws

Our international trade is so extensive that Customs cannot expect to examine every shipment or every merchandise entry. To do so would impose an intolerable burden on commerce. Therefore, Customs must aim for a high degree of voluntary compliance with the customs laws. It can do so only by adequately staffing its commercial operations facilities in each port, and providing ready service to importers who require assistance in complying with our trade laws. Customs is not only an enforcement agency, it is a service agency -- and adequate service is the foundation on which a high degree of voluntary compliance must be built.

Today our trade laws are much more complex than a decade ago. There are far greater numbers of exclusion orders and trademark recordations; country of origin, visa, and export certificate requirements; antidumping and countervailing duty entries; voluntary restraint agreements and quotas; as well as temporary duty suspensions, tariff reclassifications, and duty increases enacted by Congress. As our imports have risen, so has the number of importers who require assistance from Customs in understanding the often bewildering array of trade laws and regulations.

It is Customs' duty to staff its commercial operations offices adequately and make the services of Import Specialists available to the trade community. However, just the opposite has happened. Customs has reduced the number of Import Specialists from 1,300 a decade ago to 900 today. It plans to consolidate commercial operations in fewer and fewer locations, reducing the presence of Import Specialists in a large number of ports. At a recent meeting under the auspices of the Ways and Means Committee, representatives of the trade community noted that it was virtually impossible

to obtain a "line review" of an entry by an Import Specialist anymore, to assist the importer with classification and valuation issues. These representatives also noted that the calibre of Import Specialists has fallen as more experienced workers have quit the Service due to low morale and poor working conditions. The expertise of the Import Specialist is highly sought after by firms engaged in international trade. Halting the drain of this talent, and rebuilding Customs reserves of this critically scarce resource are paramount challenges facing Customs.

In enacting a commercial operations user fee last year, Congress declared its intention that Customs provide an adequate level of service to the trade community. Providing such service is not only right because the trade community is paying for it, but it would also enhance compliance with the customs laws. Because of OMB's repeated abuse of its budgetary powers of rescission, deferral, absorption, and apportionment -- powers that we strongly recommend it be stripped of -- the level of service will deteriorate if the Administration's budget proposals are adopted.

A high degree of voluntary compliance can't exist if persons who violate the law are not caught and punished. If the risk of getting caught is low, the attitude can spread that it's all right to cheat because "everyone else is doing it". A normally honest importer may feel compelled to cheat in order to keep up with the competition. Enforcement assures that all play by the same rules.

Our trade laws are not self-enforcing. They must be policed if the protections they guarantee are to be effective. This is not an issue of free trade versus protectionism. The issue is whether our trade laws will continue to be violated with impunity. Only last month, Customs announced that the U.S. subsidiary of Daewoo, the Korean steel firm, had paid a penalty of $988,000 for filing nine entry summaries over a two-year period that were false. This is the same Daewoo that was caught three years ago in the same type of fraud! Many of our trading partners are treating our trade laws with contempt and abuse. We need to send a strong signal to those allies, whose defense burden we are bearing, that this will not be tolerated.

Deterrence of commmercial fraud is hamstrung by inadequate enforcement capability within Customs; too few inspections, and too many entries being accepted on the honor system, without Import Specialist review. According to GAO, 98 percent of merchandise imports are entering without physical inspection of any kind. Even though the majority (approximately 70 percent) of entries are dutiable, on nearly 70 percent of all entries tariff classification and duty computation are left to the discretion of the importer. As a result of this lax enforcement, a large amount of revenue is being lost to the Federal government. Based on the results of a test conducted by Customs in Chicago in 1983, the Commercial Enforcement Selectivity Test, we have computed that Customs this year will lose approximately $700 million in direct enforcement revenue.

In addition, revenue is being lost from the low level of voluntary compliance. Customs currently collects nearly $15 billion in revenue each year. Each percentage decline in voluntary compliance costs the service about $150 million in lost revenue. Our judgement, based on the enormous volume of illegal imports, is that voluntary compliance with the customs laws is not better than 60 percent -- and probably much less. This implies a revenue loss to the Treasury of $6 billion annually.

If Customs is to improve enforcement and services to importers, it must automate its basic functions. Customs has acquired a large computer capability in recent years, and is staking its hopes on the Automated Commercial System. All of us -- Customs employees, Congress, and the nation -- have a large stake in the way Customs automates its procedures. NTEU has from the outset strongly supported automation leading to a more efficient and effective Customs Service.

Despite propaganda to the contrary, Customs efforts at automation have been highly disappointing, ranging from outright failure to throwing out the baby with the bathwater. An example of outright failure is the ACCEPT system for selecting high-risk shipments for intensive examination. GAO recently issued a report on this system (GGD 86-136) and found it to be virtually useless because of inadequate criteria for identifying high-risk shipments, and inadequate guidance for the conduct of inspections. NTEU has criticized ACCEPT since its inception as a case of "garbage in, garbage out" because of failure to collect and analyze data to identify what is high-risk and what is not, and because of its disruption of the Inspector-Import Specialist team which forms the backbone of Customs enforcement.

An example of throwing out the baby with the bathwater is the Automated Broker Interface (ABI) that Customs is ballyhooing as "paperless entry". In fact, ABI is much more mundane. By allowing brokers and others to transmit entry data directly to Customs computers, ABI eliminates the need for Customs to key-punch the data. Customs is <u>not</u> accepting ABI input in lieu of entry, rather, it still requires the hard-copy entry summary to accomplish this. At the same time, Customs is eliminating the requirement for all back-up trade documentation to be submitted for entries processed through ABI. What this means is that it will be impossible for Customs to ever review such entries to determine issues of classification, value, or admissibility. Since entries are automatically liquidated at the end of a year, and liquidation has been held by the courts to bar any further production of documents, Customs would be prevented from making a case even if it subsequently uncovered evidence of fraud.

Customs has done nothing to automate the entry review function performed by Import Specialists, despite its critical importance for enforcement and compliance. As Inspectors are not experts in the many different commodities they must deal with, they must frequently be guided by knowledgeable Import Specialists in making inspections. One of the main criticisms of the recent GAO study of cargo

inspections was that, apart from narcotics, Inspectors did not know the purpose of their inspections. As a result, they often failed to count the quantity being entered or to verify weight, despite the fact that as much as $25 billion in unreported goods are entering undetected each year. This illustrates the critical failure in commercial enforcement resulting from the breakdown of communication between Import Specialists and Inspectors under the ACCEPT system. If Import Specialists were truly involved, Inspectors would be more certain of what to look for, especially in making examinations to enforce our trade laws.

We are advised that detailed examination instructions are now being programmed into ACCEPT, but we remain skeptical that such a system can ever substitute for open communication and interaction between Inspectors and Import Specialists. The entry review function is central and needs to be automated in a way that allows the Import Specialist to call up the entry on a video screen, and to communicate with Inspectors, with other ports, and with the Customs Information Exchange. However, Customs is only beginning to conceptualize this system.

The decisions Customs makes in its automation program will impact not only on Customs itself, but on the entire international commercial system of the United States, including ports, carriers, brokers, and importers. As these entities will one day interface with Customs' computers, important issues of standardization and compatibility arise. These issues are being raised concerning the Automated Manifest System that is being designed by Customs. Customs states that the dual purpose of this system is for inventory control of goods delivered by carriers, and advance determination of shipments to be released or inspected. Security would have to be assured if such a system were used for enforcement purposes, and it should be clearly recognized that advance receipt of manifest information does not reduce the need for clearance of incoming vessels, or for physical inspection of cargo to verify manifest listings.

Another system introduced by Customs that has caused consternation in the the trade community is the Port of Arrival Immediate Release and Enforcement Determination (PAIRED) system. Under PAIRED, entries may be filed in one port for shipments cleared in another port. The concept of clearance in other than the district where entry is made is viewed as a threat to the economic viability of inland ports, where goods are shipped in-bond and entered and cleared upon arrival. Despite objections, Customs has expanded the system nationwide, though presently on a voluntary basis. Because it comes at a time when the services of Import Specialists are being cut back in many ports, PAIRED seems to be mainly an excuse for further reduction of service. We believe the program should be halted until its impacts on the economies of port communities are assessed.

If the nation is not to squander billions of dollars in automating its international commercial system, it is important that managerial capabilities to design and implement these systems be as competent and sophisticated as

we can mobilize. This is a matter too important to be left to Customs itself. Industry must be consulted and Congress must play an active part in overseeing this process from beginning to end, for what is at stake is the shape of the nation's entire trade infrastructure in the 21st century.

In recent years, Customs management has resembled a firefighting operation, as task forces have been rushed into action to handle the emergency of the moment. These tactics have garnered headlines but have lacked staying power, as the operation eventually terminates and resources are redeployed elsewhere. A famous example is the shutdown of Operation Steeltrap, a steel fraud operation in Pittsburgh, when two-thirds of the investigators were sent to South Florida to participate in a narcotics operation. When the commercial fraud program was finally launched, special fraud enforcement task forces proved so successful that Congress calld upon Customs to make them permanent.

Customs cannot go on forever with its "blitz" style of management. It has to request the resources it needs to carry out its enforcement and service functions on a continuing basis. Customs sorely needs a resource planning system to determine how to allocate additional resources where their impact on enforcement, revenue, and voluntary compliance will yield the greatest return. Customs does not attempt to measure the extent of compliance with the Customs laws, thus it has no idea what the level of compliance is. Except for one or two studies like the Chicago test, it has not gathered data on broker error rates or the impact on compliance and revenue of more Import Specialist visits to importers' premises. As GAO recently noted, Customs has retrieved virtually no useful data from the inspections it performs that would enable it to profile high risk shipments. Customs quality assurance system for entries tells us that error rates are less than ten percent, yet this check is little more than a math verification and doesn't involve visits to importers' premises or other steps to verify classification, value, quantity, or country of origin. It is hard to accept the reliability of such a system when Customs itself has found, through Project Marker, that 90 percent of the goods examined contained false or inaccurate marking.

Customs recognized this deficiency and charted a course of action to remedy it in a draft "Five-Year Plan" that it produced several years ago. Customs also launched a "compliance measurement program" in 1981, but quickly terminated it when importers selected for a full inspection objected to the cost and inconvenience. Since inspections must be made and someone must bear the cost, it may be advisable to cover certain costs out of customs user fees in order to reduce importers' objections to necessary examinations.

Customs should be required to prepare a five-year plan specifying its voluntary compliance, service, and performance objectives. It should provide estimates of returns from inspections, entry reviews, visits to importers' premises, and services that enhance voluntary compliance and revenue collection. It should also specify resource requirements to implement the plan.

U.S. Customs Service Budget for FY 1988

This will be a year of decision for Customs. The see-saw struggle between Congress and the Administration over cutbacks in the Customs Service has been prolonged for six years and has reached a stalemate. OMB has repeatedly refused to hire most of the additional staff that Congress has mandated, utilizing its powers of rescission, deferral and absorption to frustrate the congressional intent. For example, in the FY 1986 Continuing Resolution Congress provided for 14,041 average positions, but only 13,059 positions were actually realized that year as a result of OMB's keeping the lid on hiring.

The present impasse was brought about by the provision of the FY 1987 Continuing Resolution requiring Customs to be staffed at no fewer than 14,891 positions in the current fiscal year. Despite the fact that this requirement is the law of the land, OMB is using its deferral, absorption, and apportionment powers to delay hiring until the end of March, when only six months will remain in the fiscal year. At that point, Customs will be 1,000 average positions short of the legislated mandate, with too little time left to hire the required number of people.

Our Constitution places the power of the purse in the hands of Congress, and in the hands of Congress alone. Congress, through the power to appropriate, has the right to specify the objects of public expenditure, including the numbers and types of staff for an agency. The President is charged with taking care that the laws are duly executed. OMB's frustration of congressional intent, spanning a six-year period, is not only an unwarranted infringement on the domain of Congress but a challenge to congressional authority.

Congress should send a clear signal to OMB that it will not tolerate further abuse of the powers of rescission, deferral, and apportionment by amending the Budget Act to strip OMB of such powers in the case of all funds appropriated or made available to the Treasury Department. In addition, the Treasury Appropriations Subcommittees should strike all funding for OMB's Office of the Associate Director for Treasury and Justice in the FY 1988 Treasury Appropriations bill.

We recommend that the FY 1987 Supplemental Appropriation contain provisions that will (1) disapprove the $38.9 million rescission proposed for Customs by OMB; and (2) add $21.5 million for Customs Salaries and Expenses to offset the absorption of that amount required by OMB for part of the cost of the Federal pay raise and the Federal Employee Retirement System.

The Administration's FY 1988 budget proposal cuts Customs 2,000 positions below the level of the FY 1987 Continuing Resolution (see Table 1). We believe that Congress should restore these positions by adding 1,998 average positions and $73.3 million to the Administration's

budget request, and then appropriate funds out of the Customs User Fee Account for a Commercial Operations Initiative consisting of 2,000 additional positions costing $150 million.

Commercial Operations Initiative

These 2,000 new positions would be allocated to the Commercial Operations activity in the following manner: 1,000 for Inspection and Control, 800 for Tariff and Trade, and 200 for Investigations. Approximately 1,000 Inspectors and Inspector Aides, 400 Import Specialists, 400 Entry Clerks, and 200 Special Agents would be included.

The Commercial Operations Initiative would be the first step in a three-year program that would increase commercial operations resources by 6,000 average positions in order to raise the level of Customs services and restore a reasonable level of compliance with our trade laws. Approximately $1.4 billion is expected to accrue to the Customs User Fee Account from user fees collected in FY 1987 and FY 1988. The total cost of the 6,000-position Commercial Operations Initiative (including training, equipment, and overhead costs) is estimated to be $450 million. This amount includes $30 million for ADP and communications equipment. This $450 million cost of the Commercial Operations Initiative plus the basic Commercial Operations appropriation of $500 million for FY 1988 are well within the funds projected to be available in the Customs User Fee Account by the end of FY 1988. It should be recognized that, if Congress fails to take action to use the funds available in the user fee account to enhance the level of commercial operations services, the user fee will be automatically reduced in FY 1988 and future years.

An unprecedented opportunity exists to protect the American economy from illegal imports and at the same time to reduce the Federal deficit. An expenditure of $150 million for 2,000 additional commercial operations positions in FY 1988 would yield an estimated $1.3 billion in additional revenues during the first year of the program, and $1.4 billion in each succeeding year.

The dimensions of the non-compliance problem in the flow of imported merchandise is shown in Table 2. Nearly $40 billion in illegal imports enters the country each year, entailing an estimated revenue loss of $3-$6 billion annually to the Treasury. This does not count the social and economic costs of market disruptions created by these imports. About a half million jobs, $19 billion in lost sales to U.S. firms, $8-$12 billion in lost GNP, and $1.5-$2.2 billion in lost Federal taxes are attributable to illegal imports (Tables 3 and 4). The decline in voluntary compliance with the Customs laws, due to inadequate enforcement efforts to deter non-compliance, costs the Treasury $150 million in lost revenue for each 1 percent decline in voluntary compliance.

The largest part of the problem, $25 billion or 65 percent of the total, consists of unreported goods that go undetected due to insufficient cargo processing staff. These unreported goods include both tariff and quota merchandise of all kinds. The next largest component, $12 billion or 31 percent, consists of counterfeit products. Another $1.6 billion consists of goods such as steel, electronics, and textiles, imported in violation of specific trade programs.

To counter this non-compliance, Customs now employs 7,900 average positions in cargo processing and trade law enforcement, a reduction from over 9,000 positions in 1980 (see Table 5). The non-compliance trend has been rising in recent years in the face of declining Customs resources and rising workload. Data submitted by Customs to the House Ways and Means Committee shows the volume of illegal imports continuing to rise between now and 1990. Revenue loss associated with this non-compliance will also rise unless significant action is taken.

Customs is presently bypassing about 65 percent of merchandise entries, or about 5 million entries annually. Such entries do not receive adequate compliance attention by Inspectors and Import Specialists, the principal cargo processing resources. Import Specialists and Inspectors should work as a team, with Import Specialists signalling to Inspectors what to look for during an exam, and Inspectors bringing to the Import Specialist's attention what has been observed in a shipment. Entries by-passed by an Import Specialist will not receive adequate attention by Inspectors, and vice-versa.

Since 56 percent of all entries consists of trade program entries, Customs is not applying sufficient resources to verify compliance with trade program requirements. In addition, 70 percent of entries are dutiable. To process all dutiable entries, only 30 percent should be set for bypass (see Tables 6 and 7).

Dutiable and trade program entries show the dimensions of the universe on which it would be profitable to concentrate intensified commercial operations efforts. It is conservatively estimated that approximately 3 million dutiable entries will be bypassed in FY 1988 if enforcement is not strengthened. Substantial revenue in these entries will be lost if not processed by the Inspector/Import Specialist team.

Between bypass rates of 30 and 65 percent the marginal revenue from processing additional entries would be significant. Customs yields significant revenue return to the Federal government, as shown in Tables 8 and 9. Despite changes in Customs workload and commercial operations resources, the average revenue collected per formal entry has remained constant at around $2,000 since 1979. Table 10 shows that processing 1.1 million additional entries at a marginal revenue of $1,200 per entry would yield $1.3 billion in additional revenue. This would lower the overall bypass rate from 65 to 50 percent.

Table 10 also shows that it will take 1,800 average positions to process 1.1 million additional entries in FY 1988. This is computed from the fact that approximately 633 entries can be handled on average by a single cargo-processing position. Table 5 shows how the figure of 633 entries is dervied from historic data. Cargo processing positions include both inspectional and tariff and trade personnel.

Adding 200 Special Agents to follow up on the commercial fraud leads developed by Inspectors and Import Specialists, yields a total requirement for 2,000 average position to launch the Commercial Operations Initiative in FY 1988. NTEU proposes that 2,000 positions be added each year during the three-year period, FY 1988-1990, to bring the overall bypass rate down to 30 percent, to inspect more shipments, and to provide more resources for activities which enhance voluntary compliance and deter fraud, such as more assistance to importers and permanent staffing for District Fraud Enforcment Task Forces.

As shown in Table 10, an additional 2,000 average positions in FY 1988 will yield $1.3 billion in the first year of the program, part of which may be collected in FY 1989 depending upon the time required to staff up. These resources will generate $1.4 billion in the second year of the program, when an additional 2,000 positions will be added, bringing in $1.1 billion, for a total of $2.5 billion in the second year. In the third year, entry bypass will be at 30 percent or lower, and $2.8 billion will be collected. Over the three-year period, total collections would be $6.6 billion and total costs would be $450 million, for an incremental return of 14.6 to 1.

NTEU's method of estimating marginal revenue per entry is shown in the Addendum to our testimony. Because of the substantial number of bypassed entries that are dutiable, and the fact that unreported products and counterfeits may be detected when additional entries are checked, marginal revenue in the current range of commercial operations is assumed to be significant relative to the average. Between bypass rates of 65% and 50%, the marginal revenue is estimated to be $1,200 per entry, betwen 50% and 35% bypass levels $1,000, and below 35% $800 per entry.

In summary, a relatively modest expenditure on Customs Commercial Operations resources would yield significant additional revenues to the Treasury. These revenues would flow not only from direct enforcement activity, but also from increased voluntary compliance and deterrence of commercial fraud. A Customs Commercial Operations Initiative would be a worthwhile national investment, beneficial to the economy and capable of making a significant reduction in both the Federal and trade deficits.

Inspectional Overtime

Inspectional overtime has become a critical resource for meeting Customs' growing demands for clearance of

passengers and cargo. For nearly a decade, a virtually static inspectional force has had to process a growing number of air travelers and cargo shipments. With its workforce limited by OMB personnel ceilings, Customs inspectional overtime has expanded to fill the gap between workload and resources.

The amount of inspectional overtime is driven by the demand of carriers for inspectional services outside the normal duty hours of the port. Customs is reimbursed for the cost of such services from the Customs User Fee Account. Since overtime costs are now borne by all carriers rather than the individual carrier requesting service, we anticipate that demand for overtime services will rise as individual carriers request services that they are no longer billed directly for.

To ensure that sufficient overtime funds are available to meet anticipated demand, we believe Congress should mandate the merger into a single user fee account of the Passenger and Vessel User Fees enacted in 1985 and the Commercial Operations User Fees enacted in 1986. This was the original Congressional intent, but OMB has chosen to treat the fees as two separate accounts. In addition, outlays from user fees should not be subject to automatic budget cuts under Gramm-Rudman-Hollings, as Congress enacted these fees to provide an adequate level of service to the trade community.

An Inspector with overtime earnings of $15,000-$20,000 a year works an average of 62 hours a week, 52 weeks a year. A 1981 Customs study of overtime showed that, in addition to a normal 40-hour week, the average Inspector is required to work three of every four Sundays, one Saturday per month, and seven week-day overtime assignments per month. Because of the growing workload and limited staff, it is evident that an extensive commitment to inspectional overtime is entailed if Customs is to accomplish its mission.

For Inspectors to make themselves available such long hours, particularly on Sundays and holidays when other citizens are vacationing, adequate monetary incentive must be provided. The most recent data collected by Customs shows that Inspectors are earning, on the average 2.1 times the regular rate of pay on Sundays and 2.4 times the regular rate on the other days of the week. The Customs' study attributes the 2.4 rate of pay to the call-back of Inspectors who have left the worksite. Call-backs frequently occur at night and at irregular hours, and such irregular work takes a physical toll on the workforce, as is documented in several studies. The 1981 study also showed that the average Inspector works 7 hours on each Sunday assignment, and an average of 8 hours if holidays are included in this figure.

We are convinced that the frequent call-backs, the late-night hours spent away from home, and the physically demanding nature of inspectional duties justifies the present rate of overtime pay. Moreover, these rates of pay conform with the prevailing overtime rates in the private sector, which normally establishes double time premiums for

call-back and night work, and where typical practice is triple time for Sunday overtime and double time and one-half for holiday work. These facts were established in the OPM Premium Pay Study conducted in 1983.

We urge the Subcommittee to remove the $25,000 cap on Customs Inspector overtime earnings. The overtime cap has long outlived its usefulness. Proponents of the cap claim to be acting in the employee's interest by limiting the amount of overtime Inspectors could be compelled to work. However, the overtime cap had exactly the opposite effect and has completely eliminated the voluntary aspect of overtime. This is because Inspectors are required to rotate overtime assignments so that the earnings of all can be equalized.

Customs itself has urged Congress to remove the overtime cap. Treasury Department officials have testified that, in addition to costing $1 million a year to administer, the cap is preventing Customs from properly allocating its limited resources among ports experiencing different rates of growth.

Delegation of authority to waive the cap has been granted Customs by Congress. We submit that the time has come to remove the cap completely, in favor of Customs internal controls. We strongly urge the Subcommittee to adopt this course of action.

Customs Modernization Amendments of 1987

To maximize the effectiveness of the additional resources to be made available to Customs under the Commercial Operations Initiative, we believe that Congress should enact clear standards which recognize the principles we specified earlier, namely, fostering voluntary compliance through additional services to the trade community, basing enforcement on the Inspector/Import Specialist team, stripping OMB of its obstructive power, strengthening managerial capability and consultations with industry in automation projects, stemming the drain of experienced and talented people from the Service, and establishing a resource planning system so that Customs can allocate additional resources where their impact on enforcment, revenue, and voluntary compliance will yield the greatest return.

We propose that Congress enact this session the "Customs Modernization Amendments of 1987" that would:

- o direct that the corps of Inspectors and aides be staffed at no fewer than 6,000 average positions in FY 1988, 7,000 in FY 1989, and 8,000 in FY 1990 (a 1,000-position increase in each fiscal year);

- o direct that the corps of Import Specialists and entry clerks be staffed at no fewer than 4,000 average positions in FY 1988, 5,000 in FY 1989, and 6,000 in FY 1990 (a 1,000-position increase in each fiscal year);

- o raise the senior grade for Inspectors and Import Specialists one GS level, to facilitate recruitment and retention of critically short personnel;

- o establish on a permanent basis Special Fraud Enforcement Teams in all 45 Customs Districts and areas;

- o mandate, for each current duty assessment location, a specified number of Import Specialists for that location, with provision for adjustment based upon the number of entries, types of commodities, and size of the importer and broker community in the location, provided full justification is submitted to the House Ways and Means and Senate Finance Committees;

- o establish, as a standard, that a minimum of 70 percent of all entries are to be reviewed by Import Specialists, and require Customs to take steps to achieve this standard within three years;

- o establish, as a standard, that a minimum of 25 percent of Import Specialist fraud referrals shall be followed up by the office of Investigations, and require Customs to report progress in meeting this standard to the Committee on Finance and the Committee on Ways and Means;

- o require GAO to study the optimum way for Customs to organize to assure a high degree of compliance with trademark and copyright recordations, and ITC exclusion orders aimed at protecting U.S. intellectual property rights;

- o amend the Budget Act to abolish OMB's powers of rescission, deferral, absorption, and apportionment with respect to funds appropriated or made available to functions or agencies of the U.S. Treasury Department;

- o provide that, absent fraud or conspiracy to import dangerous drugs, the additional loading, unloading, demurrage, and transportation costs incurred by an importer as a result of intensive Customs examination will be reimbursed from commercial operations user fees;

- o provide $1 million for a contract study to evaluate Customs ADP systems for entry processing, quota control, in-bond shipment, manifest clearance, and enforcement, incorporating the following standards: maximum reliance upon the Inspector-Import Specialist

team for enforcement; automated review of entries by Import Specialists; capability of Import Specialists to communicate with Import Specialists at other ports and with the Customs Information Exchange; standardization and compatibility with computers of ports, carriers, importers and brokers;

- terminate the PAIRED system until Customs submits an evaluation of the impacts of the system on the economies of port communities;

- mandate the merger into a single Customs User Fee Account the Passenger and Vessel User Fees and the Commercial Operations User Fees;

- require the design and implementation of a resource planning system, preparation of a Customs 5-year plan, and a GAO study of the progress and effectiveness of Customs in carrying out this requirment;

- require Customs to submit a report showing alternative ways it could use 1,000 additional FTE to enhance voluntary compliance through improved services and assistance to importers and others in the trade community;

- require a GAO study of the effectiveness of the present audit/inspection approach to bonded warehouse and Foreign Trade Zone compliance, compared to having a physical Customs presence, with recommendations as to the optimum approach for assuring a high degree of compliance with the trade laws by users of these entities;

- mandate that budget authority and outlays paid for from Customs user fees shall not be subject to automatic budget cuts; and

- eliminate the cap on inspectional overtime.

Mr. Chairman, this concludes my statement. I will be happy to answer any questions.

TABLE 1

U.S. CUSTOMS SERVICE FY 88 BUDGET REQUEST AND NTEU RECOMMENDATION

(Amounts in Thousands of Dollars)

	FY 88 BUDGET REQUEST		ADD-ON REQUIRED FOR RESTORATION TO FY87 CR LEVEL		RECOMMENDED BASE-LINE FOR FY 88 APPROPRIATIONS		NTEU RECOMMENDED ADDITION		NTEU RECOMMENDED APPROPRIATION	
	Amount	Average Positions	Amount	Average Positions	Amount	Average Positions	Amount	Average Positions	Amount	Average Positions
Inspection and Control	62,439	1,505	+49,731	+1,906	112,170	3,411			112,170	3,411
Tariff and Trade	--	--	--	--	--	--			--	--
Tactical Interdiction	133,048	1,956	+620	+26	133,668	1,982			133,668	1,982
Investigations	108,405	1,577	+339	+16	108,744	1,593			108,744	1,593
Commercial Operations	499,198	8,001	+1,080	+50	500,278	8,051	+150,000	+2,000	640,278	10,051
SUB-TOTAL	803,090	13,039	+73,294[a]	+1,998	876,384[a]	15,037	+150,000[c]	+2,000[c]	1,026,384	17,037
Operation & Maintenance, Air Interdiction Program	86,210[b]				86,210				86,210	
TOTAL	889,300	13,039	+73,294	+1,998	962,594	15,037	+150,000	+2,000	1,112,594	17,037

a. Includes restoration of FY 87 rescission of $38,945,000 and 1,485 FTE, FY 1988 cut of $12,825,000 and 513 FTE, and FY 88 absorption of $21,524,000.

b. Reduction from FY 1987 level of $170,950 due to several one-time equipment purchases in FY 1987.

c. Includes 1,000 positions for Inspection and Control, 800 positions for Tariff and Trade (400 Import Specialists and 400 Entry Clerks), 200 Commercial Fraud Investigators, and $10 million for ADP improvements.

TABLE 2

Commercial Fraud Is Huge

(In Billions of Dollars)

	1985	1986	1987	1988	1989	1990
Goods Imported but Unreported (est.)	25	25	25	25	25	25
Counterfeit Goods[1]	10.5	11	12	12.5	12	12
Goods Imported in Violation of Trade Agreements[1]						
Steel	.550	.525	.500	.575	.600	.625
Textiles	.450	.473	.495	.518	.540	.563
Other[2]	.425	.446	.468	.488	.510	.531
Sub-Total	1.375	1.444	1.513	1.581	1.650	1.719
Grand Total	36.875	37.444	38.513	39.081	38.650	38.719
Estimated Revenue Loss[3]	3.0	3.0	3.0	3.0	3.0	3.0
Est. Sales Loss to U.S. Firms[4]	19	19	19	19	19	19
Est. GNP Loss[5]	8-12	8-12	8-12	8-12	8-12	8-12

TABLE 2 Cont'd.

1 U.S. Customs Data

2 Includes Electronics

3 The average rate of duty on dutiable imports is 8%. Applying this rate to $38.6 billion yields a conservative estimate of the revenue loss, as fines, penalties and forfeitures, in addition to duties, would be involved in actual cases.

4 ITC estimate for conterfeit goods alone in $6 billion. To this is added one-half of unreported goods and goods imported in violation of trade agreements.

5 Manufactured imports were $300 billion in 1984, and illegal imports of $40 billion would raise this amount by 13.3%. A Department of Commerce analysis found a loss of from $60 to $90 billion in GNP as a result of the trade deficit (exports minus imports) in 1984. Assuming these losses would increase in the same proportion as the increase due to illegal imports, there would be an additional loss of $8-$12 billion in GNP.

TABLE 3

JOBS LOST FROM ILLEGAL IMPORTS IN SELECTED MANUFACTURING SECTORS, 1984

	LEGAL IMPORTS (Billions)	TOTAL EMPLOYMENT (000)	EST. ILLEGAL IMPORTS (BILLIONS)	NET JOBS LOST FROM LEGAL TRADE[1]	ESTIMATED J LOST FROM ILLEGAL IMPOR
Textiles & Apparel	23.640	1915	5.04	674,000	144,000
Rubber & Misc. Plastics	6.653	763	1.40	89,000	18,700
Leather	8.819	176	1.88	238,000	50,700
Primary Iron & Steel	12.022	512	2.56	148,000	31,500
Primary Nonferrous Metals	11.341	299	2.40	95,000	20,100
Fabricated Metal Products	7.130	1377	1.52	87,000	18,500
Electrical & Electronic Equip.	48.103	2078	10.28	356,000	76,000
Motor Vehicles & Equipment	51.496	882	11.0	196,000	42,000
Instruments	8.596	524	1.84	34,000	7,300
Misc. Manufactures	9.700	395	2.08	135,000	29,000
TOTAL	187.5	8921	39	2,052,000	437,800

[1] Derived from data on 1984 imports and net employment changes from trade contained in Kan Young, Ann Lawson, and Jennifer Duncan, Trade Ripples Across U.S. Industries, U.S. Department of Commerce Working Paper, January 1986. Net jobs lost from legal trade are jobs gained from exports minus jobs lost from legal imports. Illegal imports of $39 billion are assumed to be an addition to legal imports, and are distributed in same proportion as industry's share of legal imports.

[2] Based on proportion of illegal imports to legal imports, e.g., for textiles and apparel, (5.04 ÷ 23.64) x 674,000 = 144,000.

TABLE 4

Illegal Imports Are Costing the Nation Each Year—

- $3-$5 Billion in Lost Customs Revenues
- $19 Billion in Lost Sales
- $8-$12 Billion in Lost GNP
- 500,000 Lost Jobs
- $1.5-$2.2 Billion in Lost Federal Taxes

TABLE 5

MERCHANDISE ENTRIES AND CARGO PROCESSING POSITIONS

FY 1980-1988

Fiscal Year	Formal Entries	Cargo Processing Positions (FTE) Cargo Inspection	Tariff & Trade	Total
1980	4,374	5,108	4,082	9,190
1981	4,588	5,102	3,837	8,939
1982	4,703	4,693	3,748	8,441
1983	5,314	4,830	3,595	8,425
1984	6,421	4,842	3,541	8,383
1985	6,823	4,853	3,197	8,050
1986	7,251	4,824	3,031	7,855
1987	7,521	4,861	3,046	7,907
1988	7,592	4,861	3,046	7,907

NOTES:

1. Formal entries increased 3,218,000 or 74%; total cargo processing staff decreased 1,283 average positions, or 14%.

2. Workload, measured as formal entries per cargo processing position, rose from 476 in 1980 to 960 in 1988, a 102% increase.

3. Productivity, estimated as the number of entries each cargo processing position is capable of handling, was 513 entries per position in 1981. Assuming a 3 percent per year

TABLE 6

FORMAL ENTRIES BY TYPE AND NUMBER REQUIRING IMPORT SPECIALIST REVIEW, FY 1983 AND FY 1985
(In Thousands)

	1983	Percent[1]	1985	Percent[1]
Total Formal Entries	5314	100	6823	100
Trade Program Entries:				
Quota and Monitored	519.0		891	13.06
GSP	372.4		471.8	6.91
Antidumping	24.5		31.2	.46
Countervailing Duty	60.4		83.4	1.22
Steel Program	108.8		164	2.40
Sub-Total	1085	20	1641.4	24.1
Other Agency Entries[2]	1100	20	2056	30.1
Licensing Requirements[3]	100(est)	2	148	2.17
Dutiable Entries	3565	67	4743	69.5
Estimated Entries Requiring Import Specialist Review[4]	3354.5	63	5268	77.2

[1] Components do not add to 100% due to overlap between dutiable entries and other entries.

[2] Entries where Customs enforces requirements of other agencies, e.g., Agriculture, FDA, EPA, etc.

[3] Licenses required for importation by DOA, DOE, and other agencies (these totals are not included in other agency requirements, described in Note 2).

[4] Consists of all trade program, other agency and licensing entries, and 30 percent of dutiable entries.

SOURCE: U.S. Customs Service

TABLE 7

TRADE PROGRAM AND DUTIABLE ENTRIES, COMPARED TO BY-PASS

FY 1983-1988

FISCAL YEAR	TOTAL FORMAL ENTRIES (000)	DUTIABLE ENTRIES (000)	PERCENT OF TOTAL	TRADE PROGRAM ENTRIES (000)[1]	PERCENT OF TOTAL[2]	BY-PASS RATE[3]	ENTRIES REVIEWED (NOT BY-PASSED) (000)
1983	5,314	3,565	67.1	2,285	43	50	2,657
1984	6,421	4,402	68.6	--	--	--	--
1985	6,823	4,743	69.5	3,845	56	60	2,697
1986	7,251	5,076	70.0	4,061	56 (est)	65	2,538
1987	7,521	5,265	70 (est.)	4,212	56 (est.)	65	2.632
1988	7,592	5,314	70 (est.)	4,252	56 (est.)	65	2,657

1. Trade program entries include quota and monitored, GSP, antidumping, countervailing duty, steel program, other agency entries, and licensing requirements.

2. Actual FY 1983 and FY 1985 data is extended to FY 86-88. Percentage totals add up to more than 100 percent because of overlap between dutiable and trade program entries.

3. This is the percentage of entries not designated for Import Specialist review. By-pass procedures were established by Customs because entry growth exceeded staff capability.

TABLE 8

Customs Yields Revenue To The Federal Government

	Average Revenue Per Dollar Appropriated	Incremental Revenue Per Dollar Estimated By CBO
1979	$19.05	
1980	$17.98	
1981	$18.48	
1982	$18.94	
1983	$17.01	
1984	$21.06	
1985	$20.16	$15.70

TABLE 9

AVERAGE U.S. CUSTOMS REVENUE COLLECTION PER FORMAL MERCHANDISE ENTRY

FY 1979-1988

FISCAL YEAR	TOTAL REVENUE COLLECTION (MILLIONS)	TOTAL MERCHANDISE ENTRIES (000)	AVERAGE REVENUE COLLECTION PER ENTRY ($)
1979	8,460	4,384	1,930
1980	8,230	4,374	1,882
1981	9,197	4,588	2,005
1982	9,981	4,703	2,122
1983	9,785	5,314	1,841
1984	12,541	6,421	1,953
1985	13,237	6,823	1,940
1986	14,731	7,251	2,032
1987(est.)	14,982	7,521	1,992
1988(est.)	15,271	7,592	2,011

TABLE 10

ADDITIONAL RESOURCE REQUIREMENTS AND REVENUE FOR COMMERCIAL OPERATIONS INITIATIVE, FY 1988-1990

FORMAL ENTRIES OF MERCHANDISE (000)	ENTRY BY-PASS RATE	ENTRIES TO BE REVIEWED (000)	NUMBER OF ADDITIONAL ENTRIES REVIEWED (000)	MARGINAL REVENUE COLLECTION PER ENTRY[2]	ADDITIONAL REVENUE YIELD FROM REVIEW OF ADDITIONAL ENTRIES ($MILLIONS) [3]	NUMBER OF ENTRIES PER AVERAGE COMMERCIAL CARGO PROCESSING POSITION [4]	ADDITIONAL AVERAGE POSITIONS REQUIRED TO PROCESS ADDITIONAL ENTRIES
ESTIMATE FOR FY 1988:							
7,592	65%	2,657					
7,592	60%	3,037	380				
7,592	50%	3,796	760				
FY 1988 SUMMARY			1,140	1,200	$1,368	633	1,800
ESTIMATE FOR FY 1989:							
7,700	45%	4,235	410[b]				
7,700	35%	5,005	770				
FY 1989 SUMMARY[a]			1,180	$1,000	$1,180	650	1,800
ESTIMATE FOR FY 1990:							
7,800	30%	5,460	410	$800	$328	670	600[c]

TABLE 10. (CON'T.)

1. Bypass is the rate established for entries not to be reviewed by an Import Specialist. Commercial Operations service levels can be expressed in terms of a decreasing bypass rate.

2. See Table 9 and addendum for discussion of how marginal revenue estimates were arrived at.

3. It is assumed that revenue collections will lag hiring of additional resources somewhat, depending upon the time required to staff up.

4. See Table 5 for derivation. Commercial cargo processing positions include Inspectors, Import Specialists, and support personnel.

5. Numbers shown do not include 200 Special Agents added each year in FY 1988-1990.

a. In addition, 1,170,000 entries will be processed by 1,800 positions at 650 entries per position in FY 1989, yielding revenue of $1.4 billion. This is the production of the 1,800 new positions brought on board in FY 1988, and is in addition to the production of the 1,800 new positions on board in FY 1989.

b. Obtained by subtracting from 4,235 the number of entries processed by existing staff (2,657) and the number of entries processed by new staff brought on board in FY 1988 (1,170).

c. Of 2,000 Commercial Operations positions requested for FY 1990, 600 will be used for cargo processing, 200 are commercial fraud investigators (Special Agents) and the remainder are Inspectors and Import Specialists assigned to provide more assistance to importers, to District fraud enforcement task forces, bonded warehouse and Foreign Trade Zone programs, and other activities which enhance voluntary compliance and deter fraud.

TABLE 11

U.S. CUSTOMS SERVICE
Average Positions
by Category
FY 1972 - 1988

Fiscal Year	Inspectors	Import Specialists	Patrol Officers	Special Agents	Total Customs
1972	3,184	1,312	485	853	11,116
1973	3,472	1,304	736	956	11,772
1974	3,693	1,208	971	532	11,878
1975	3,803	1,262	1,152	582	13,076
1976	3,873	1,256	1,191	614	13,380
1977	3,943	1,204	1,365	603	13,228
1978	4,077	1,207	1,251	600	13,854
1979	4,174	1,236	1,211	577	14,061
1980	4,165	1,219	1,231	604	13,820
1981	4,379	1,165	1,332	597	13,316
1982	3,987	1,081			12,924
1983	4,122	1,027	1,134	701	12,898
1984	4,289	1,042	1,246	932	13,319
1985	4,262	974	1,236	925	13,042
1986	4,305	927	1,072	982	13,059
1987 (ADMIN)	4,329	937	1,263	1,120	13,552
1987 (C.R.)					15,037
1988 (ADMIN)	4,158	902	1,232	1,078	13,039

Source: U.S. Customs Service Budgets

ADDENDUM

Estimating Incremental Revenue Return from Customs Commercial Operations Activities

General

Customs enforcement centers around two activities: inspection of shipments and review of entry documentation. Investigations by Special Agents assigned to commercial fraud cases, and post-audit of entry documents, back up these principal activities.

Data provided by Customs and GAO to the Congress show that --

a. with regard to inspection, 98 percent of merchandise is now entering without inspection; only 2 percent of containerized shipments (which comprise 70 percent of seaborne non-bulk shipments) are partially inspected by opening the tailgate and performing a visual check; and only .5 percent (20,000 out of 4 million) of containerized shipments are fully inspected by unloading the container. These low inspection rates have contributed to the internal Customs estimate of $25 billion in unreported products entering the country, in addition to $12 billion in counterfeit products.

b. with regard to review of entry documents, Customs is now allowing about 65 percent of entries to bypass review by Import Specialists; prior to the recent rapid escalation of entries starting in FY 83, 100 percent review upon entry was the policy. Import Specialists, working with Inspectors who would physically examine the shipments, made admissibility determinations prior to the products' entering the stream of commerce. This system served to deter commercial fraud and maintain a high voluntary compliance rate. Bypass and inspection of a miniscule proportion of shipments have led to a significant decline in voluntary compliance and a large inflow of illegal imports which is well documented in congressional hearings.

Decline in Voluntary Compliance

The voluntary compliance rate is the percentage of revenue owed that is collected. Customs collected $14.7 billion in FY 86 and says the voluntary compliance rate is around 90 percent (it infers this from a check of entry errors under its quality control program; it does not regularly measure compliance).

If $14.7 billion is collected at 90 percent compliance, $16.3 billion is the total amount of duty owed. Customs expects to collect $15 billion in FY 87 and $15.3 billion in FY 88, hence duty owed for these years would be $16.7 and $17 billion respectively.

Given the evidence presented to Congress (warehouses full of phony computers, billions in illegal steel and textiles, etc) and the minimal enforcement already described, it is not realistic to suppose that compliance is 90 percent today, or that it will remain at the level of previous years.

NTEU believes that Customs compliance is far less than 90 percent and that it has been falling significantly in recent years and will continue to fall until additional compliance resources are provided.

If total revenues owed are $16-$17 billion, then the revenue loss (or gain) from a 1% change in voluntary compliance is $160-$170 million. We use $150 million as a conservative estimate.

Increasing Revenue from Additional Customs Cargo Processing Staff

In a letter dated March 15, 1982 the Comptroller of Customs stated his view that the incremental yield from additional resources would be 3:1 (3 dollars return for each dollar spent). This letter was written before the recent large-scale inflow of imports and the relative decline in the number of inspections and entries being reviewed. It can be anticipated that incremental yield would be higher today. The 3:1 ratio can therefore be considered a lower bound. The average yield, 21:1, is an upper bound.

NTEU has examined cargo processing staff as a unit. One unit of cargo processing staff consists of 3 Inspectors, 1 Import Specialist, and .13 Special Agents assigned to fraud. The cost of this unit, at $35,000 per Inspector and Import Specialist staff-year and $59,000 per Special Agent staff-year is $147,670. Assuming 3:1 incremental return, the revenue yield would be $443,000. Since one cargo processing unit will process 633 entries on average in FY 1988, the incremental revenue per entry corresponding to a 3:1 yield would be $443,000 divided by 633 or $700.

Incremental revenue thus falls betwen $700 and $2,000 per entry, with the average revenue per entry ($2,000) constituting the upper bound. Midway between $700 and $2,000 woudl be $1,350. In its study, NTEU used $1,200 as the incremental revenue per entry for bypass rates between 65 percent and 50 percent, $1,000 per entry for bypass rates between 50 percent and 35 percent, and $800 per entry for bypass levels below 35 percent.

In the Commercial Operations Initiative, 1,140,000 additional entries would be processed by 2,000 additional positions in FY 1988. Using $2,000 per entry (the 1979-86 historical average), the total amount of revenue in these entries would be $2.28 billion. The total amount recovered from processing these entries, at $1,200 per entry marginal return, would be $1.37 billion.

STATEMENT OF HARRY LAMAR, SECRETARIAT, JOINT INDUSTRY GROUP, WASHINGTON, DC

Mr. LAMAR. Chairman Bentsen and members of the Senate Committee on Finance, my name is Harry Lamar. I serve as Secretariat to the Joint Industry Goup, and I present this testimony in lieu of Mr. Kenneth A. Kumm, Chairman of the Joint Industry Group, who was unable to be here today.

The Joint Industry group is a coalition of eighty trade associations, business firms, law firms and other professional firms actively involved in international trade with an operational interest in the U.S. Customs Service.

They have been concerned over the past several years with actions by the U.S. Customs Service in administering the customs law and the myriad of trade statutes and regulations which impact on their manufacturing and marketing operations both in this country and abroad. Mr. Chairman, the description of the Joint Industry Group was inadvertently left off our written statement. I request that it be inserted in the record of the hearing after our written statement.

The CHAIRMAN. Without objection, it will be done.

Mr. LAMAR. In terms of management of the U.S. Customs Service, there has developed what members of the Joint Industry Group perceive to be a lack of balance in the recognition of and the need for the application of Customs resources, between adequate and effective enforcement and the facilitation of commerce. This has been touched on from time to time in testimony before this committee in recent hearings and elsewhere, in describing traffic backups at major international airports, congestion at some of the entry points on the U.S./Mexican border, and at ports on the West Coast.

Members of the Joint Industry Group with long experience in dealing with the U.S. Customs Service think of the Customs Service as a corps of professionals who know their jobs and who share their knowledge and experience and advice with importers. They are professionals who take pride in the facilitation of commerce within the frame of reference of tough and effective enforcement of customs laws.

It is obvious that the resources of the U.S. Customs Service dedicated to the facilitation of commerce has not kept pace with the tremendous increase in the foreign trade of the United States. The common perception in the importing business community is that the corps of Customs professionals is being depleted, brought about by a growing lack of adequate resources, principally import specialists on the line. As a result, predictability in dealing with the Customs Service has decreased. Instead of import specialists familiar with importers, brokers, and the commercial nature and characteristics of their products, there are now dramatically fewer such specialists, and the emphasis is being placed on enforcement personnel.

At times, it seems as if the changes in regulations and operating procedures are aimed at waiting for infractions to occur and charging the importer with violations of customs laws rather than having import specialists work with importers and brokers to

achieve proper, appropriate, and expeditious entry and clearance of goods. We feel this is mostly due to the lack of resources.

This approach is evident in changes in regulations and procedures aimed at unlawful practices, but which burden the legitimate and illicit trader alike. We have concluded that if there were more willingness on the part of the Customs Service to consult with the importing business community in troublesome enforcement areas of commercial clearance of goods, use of enforcement resources could be improved and the drain on resources available for commercial facilitation would be minimized.

The Joint Industry Group recommends that the Customs Service should be required to follow the intent and letter of the law and make more consistent and greater efforts to publish its rulings and otherwise make them available to the public. These rulings represent the current thinking of Customs on legal issues and thus can be relied on by the importing public in subsequent transactions involving similar issues. Such a policy could reduce the enforcement burden by catching errors, intentional or not, before they occur in a cooperative rather than adversarial relationship with importers and brokers. Predictability and certainty of customs practice would be increased, reducing the need for review and inspections and also reducing the risks to importers and brokers.

The Joint Industry Group rejects the administrative mentality that developed the user fee approach that users of customs services are a small, select group of importers, brokers and transportation companies who are receiving unique, specialized services of clearing goods and passengers through Customs. In reality, the commercial clearance services are really procedures required by customs, trade, and other laws. These fees ultimately will reduce the competitiveness of U.S. exports as mirror charges are imposed by our trading partners.

We hope that you will reject the Administration's proposal to make the customs user fee permanent.

In summary, Mr. Chairman, we feel that Customs should reverse its policy of reducing the number of import specialists and others whose role it is to facilitate commerce; it should continue its emphasis on automation of the entry process, including a periodic entry system toward which it is moving. It should restore the Office of Regulations and Rulings to its former position so that rulings may be acted upon quickly and be made known to the importing public. We believe that it should also continue to seek sound enforcement measures for effective enforcement is important to all legitimate business operations, as well as to the health of our country.

However, we ask for balance in assigning resources between effective enforcement and effective facilitation of commerce.

Mr. Chairman, as a former member of the staff of the Committee on Ways and Means, it is an honor for me to appear before this committee, and I thank you for the opportunity.

[The prepared written statement of Mr. Lamar, with accompanying documents, follow:]

STATEMENT BY HARRY LAMAR ON BEHALF OF THE
JOINT INDUSTRY GROUP BEFORE THE SENATE COMMITTEE ON FINANCE
HEARINGS ON U.S. CUSTOMS SERVICE MANAGEMENT, FEBRUARY 26, 1987

Mr. Chairman, Members of the Senate Committee on Finance, my name is Harry Lamar. I serve as Secretariat to the Joint Industry Group, and I present this testiomony in lieu of Mr. Kenneth A. Kumm, Chairman of the Joint Industry Group, who was unable to be here today.

The Joint Industry Group is a coalition of eighty trade associations, business firms, law firms and other professional firms actively involved in international trade with an operational interest in the U.S. Customs Service. They have been concerned over the past several years with actions by the U.S. Customs Service in administering the customs law and the myriad of trade statutes and regulations which impact upon their manufacturing and marketing operations in the United States and abroad. Mr. Chairman, the description of the Joint Industry Group was inadvertently left off our written statement. I request that it be inserted in the record of the hearing after our written statement.

In terms of management of the U.S. Customs Service, there has developed what the members of the Joint Industry Group perceive to be a lack of balance in recognition of, and need for, and application of Customs resources, between adequate and effective enforcement and the facilitation of commerce. This has been touched on from time to time in testimony before this Committee and elsewhere, in describing traffic backup at major international airports, congestion at [redacted] entry points on the U.S./Mexican border and at ports on the West Coast.

Members of Joint Industry Group with long experience in dealing with the U.S. Customs Service think of Customs as a corps of professionals, who know their job and who share their knowledge, experience and advice with importers. They are professionals who take pride in the facilitation of commerce within the frame of reference of tough and effective enforcement of customs law.

It is obvious that the resources of the U.S. Customs Service dedicated to the facilitation of Commerce has not kept pace with the tremendous increase in the foreign trade of the United States. The common perception in the importing business community is that the corps of customs professionals is being depleted, brought about by a growing lack of adequate resources, principally import specialists operating on the line. As a result predictability in dealing with the Customs Service has decreased. Instead of import specialists familiar with importers, brokers, and the commercial nature and characteristics of their products, there are now dramatically fewer such specialist and the emphasis is being placed on enforcement personnel. At times it seems as if the changes in regulations and operating procedures are aimed at waiting for infractions to occur and charging the importer with violations of customs law rather than having import specialists work with importers and brokers to achieve proper, appropriate and expeditious entry and clearance of goods. We feel this mostly is due to a lack of resources.

This approach is evident in changes in regulations and procedures aimed at unlawful practices, but which burden the legitimate and the illicit trader alike. We have concluded that if there was more willingness on the part of the Customs Service to consult

with the importing business community in troublesome enforcement areas of commercial clearance of goods, use of enforcement resources could be improved and the drain on resources available for commercial facilitation would be minimized.

The Joint Industry Group recommends that the Customs Service should be required to follow the intent and letter of the law and make a more consistent and greater effort to publish its rulings and otherwise make them available to the public. These rulings represent the current thinking of Customs on legal issues and thus can be relied on by the importing public in subsequent transactions involving similar issues. Such a policy could reduce the enforcement burden by catching errors, intentional or not, before they occur, in a cooperative rather than adversarial relationship with importers and brokers. Predictability and certainty of customs practice would be increased, reducing the need for review and inspections and also reducing the risks to importers and brokers.

The Joint Industry Group rejects the administrative mentality that developed the user fee approach that the "users" of Customs "services" are a small, select group of importers, brokers and transportation companies who are receiving unique, specialized services of clearing goods and passengers through Customs.

In reality the commercial clearance "services' are really procedures required by customs, trade and other laws. These fees ultimately will reduce the competitiveness of U.S. exports as mirror charges are imposed by our trading partners. We hope that you will reject the Administration's proposal to make the customs user fee permanent.

In summary, Mr. Chairman, we feel that Customs should reverse its policy of reducing the number of import specialists and others whose role it is to facilitate commerce; it should continue its emphasis on the automation of the entry process, including a periodic entry system toward which it is moving. It should restore the Office of Regulations and Rulings to its former position so that rulings may be acted upon quickly and be made known to the importing public. We believe it should also continue its to seek sound enforcement measures for effective enforcement is important to all legitimate business operations, as well as to the health of our country. However, we ask for balance in assigning of resources between effective enforcement and effective facilitation of commerce.

Mr. Chairman, as a former member of the staff of the Committee on Ways and Means it is an honor to appear before your Committee. I thank you for the this opportunity to do so.

Committee.

STATEMENT OF KENNETH A. KUMM FOR THE JOINT INDUSTRY GROUP
before the COMMITTEE ON FINANCE

February 26, 1987

Mr. Chairman, Members of the Committee, my name is Harry Lamar. I serve as Secretariat of the Joint Industry Group. I am appearing today in lieu of Kenneth A. Kumm, Chairman of the Joint Industry Group, who was unable to appear here today.

The Joint Industry Group is a coalition of eighty trade associations, businesses, and law firms and other professional firms actively involved in international trade with a operational interest in the the Customs Service. A description of the Joint Industry Group is attached,

We welcome this opportunity to comment on the commercial operations of the U.S. Customs Service and what we perceive to be a lack of balance in the recognition of the need for and application of Customs resources, between adequate and effective enforcement and the facilitation of commerce.

The Joint Industry Group is concerned with the adequacy of funding and resources for the day to day customs functions of clearing merchandise. As representatives of business firms and members of trade associations intimately involved with the $380 billion in U.S. imports and with over $200 billion in U.S. exports, we are concerned with actions by the U.S. Customs Service in administering the customs law and the myriad of trade statutes and regulations. Such actions impact upon our manufacturing and marketing operations in the United States and abroad. Therefore, we would like to address two broad issues pertinent to the purposes of this hearing. The first issue relates Customs costs and beneficiaries. The second set of issues covers the area of Customs rulemaking.

Customs Costs and Beneficiaries

The Joint Industry Group strongly supports sufficient resources for Customs' performance of its essential functions. However, we have consistently opposed the imposition of so-called "users' fees" for Customs activities. We feel that Customs work is not "services" for which there are identifiable "users," but rather formalities to which travellers and commerce are subjected. When the beneficiary is the general public, then general tax revenues should fund the activity. For this reason and a number of other reasons outlined in our previous testimony before this Committee, we continue to feel users' fees are ill-advised. Gatt Article VIII prohibits the imposition of such fees for fiscal purposes. So long as the fees do not relate to the cost of the service and are not earmarked for Customs' budget accounts, the fees cannot be defended in the GATT. We feel the fees enacted in the last two years inevitably will invite retaliation. Even if trade "retaliation" does not result, per se, the enactment of customs users fees on commercial clearances will not be without costs in terms of market access for U.S. exports as other countries respond to such fees, which may appear negligible, but which certainly have a cost.

Consider, if you will, the implications of the customs user fee on a $10,000 import entry of chemicals. The customs user fee of 0.0022 percent would amount to $22.00, which may well be close to the cost of computing and certifying the correctness of the fee due, both for the Customs Service and for the importer. This is particularly true if the chemical happened to be free of duty or if the duty is a specific rate of duty and the declared value in the past had not had to be carefully documented for duty assessment purposes. Consider then the same chemical, only entered in a much larger entry of

$10,000,000. The same amount of paper work by the Customs Service and the importer would be necessary, only the user fee for the $10,000,000 entry would be $22,000. Such costs would not be considered to be negligible by either the broker or the business firm importing the chemical.

We do respectfully urge the Committee to re-examine Customs' human and financial resources in terms of the functions Customs perform, who benefits, and thus, who should pay. As we see it, Customs has three parts to its current mission; the largest part, narcotics interdiction, consumes, according to Customs, one-half of Customs' resources. The second part involves the enforcement of more than 400 statutes, ranging from agricultural inspections to data collection. The third is the processing of ordinary commercial shipments.

A program to interdict narcotics is a very important and necessary function which protects all the residents of the United States. This function should be regarded as a law enforcement and crime prevention function, and we feel it should be funded by the general revenues from the taxpayers who are the beneficiaries of the program. Drug interdiction should not be funded by a fee for following Customs' procedures and requirements for the legal importation of merchandise.

The Customs Service also undertakes the enforcement of approximately 400 statutes, for roughtly 40 different agencies ranging from Agriculture, to Census, to Commerce's ITA, to Immigration. These enforcement efforts consume a substantial portion of the other half of Customs' resources. We recognize the need for many of these activities, but we feel that Customs should be compensated by the customers within the Executive Branch for which it performs these services. In the case of the statistics on international trade that Customs

collects for the Census Bureau, the timeliness and accuracy of these statistics best would be served, in an economic sense, if Customs charged the Bureau for the true cost of this activity. The parties who want and use the statistics should bear the costs of collecting them, and would have a stronger role, since they pay for them, in determining what is collected. Similar reimbursements should be made to Customs by all other agencies for which Customs facilitates their mission.

The third activity is really Customs' main job: routine commercial services involving sampling imports and collecting duties at the ports of entry. These services consume only a small percentage of Customs resources, but the duties collected are nearly 20 times Customs' entire budget for interdiction of drugs, assisting other agencies, and commercial services.

We suspect that the customs user fees enacted temporarily generate more than sufficient revenue to cover these commercial service costs. However, we still think it much more appropriate that the duties collected on the merchandise by Customs pay for the costs of collecting them, as well as any manpower increases or automation improvements necessary now or in the future.

Members of the Joint Industry Group are aware that the budgetary proposals and the budgetary process left few options in the past two years with regard to the customs user fee. Prior to any further action regarding these fees we urge the Committee to take the time to examine the whole concept of user fees along the lines we have outlined as a management concept of appropriate enforcement functions differentiated from the other mission of the Customs Service, which is the facilitation of commerce. We, therefore, urge you not to make the customs user fee permanent as is being recommended by the Administration.

Lack of Procedural Propriety in Customs Rulemaking

The Joint Industry Group has become concerned over the increasing tendency of Customs Headquarters to make policy decisions affecting commercial transactions without prior consultation with the private sector. In addition, problems have increasingly arisen in regard to the issuance of Headquarters rulings on import transactions, both in terms of the delay in issuing those rulings and in terms of the manner in which they are made available to the public.

The Joint Industry Group previously has submitted testimony on the nature of actions taken by the Customs Service in which little or no consultations were held with the private sector, actions which seriously impacted legitimate business operations. In the cases cited it appeared to the members of the Joint Industry Group that prior consultations with the business community could have anticipated problems and the remedies then adopted would have fully met enforcement needs.

The involvment of members of the Joint Industry Group with customs operations operations provides a great awareness of the very difficult tasks facing the Customs Service. The Group has attempted to provide constructive support, particularly in Customs' effort to improve efficiency through data automation techniques and procedures. As an organization we have sought to discuss procedural problems with Customs officials. Based on this experience the Joint Industry Group is of the opinion that the disruption and uncertainty caused by precipitous issuance of enforcemnt measures without adequate consultation with the private sector is a poor management technique. Instead of directing investigatory, inspection and already existing and adequate enforcement measures against the suspected customs violators the approach is one of the

lowest common denominator which burdens legitimate and illicit importers alike. Meanwhile such an approach shifts scarce customs resources from commercial facilitation. The Joint Industry Group believes that more willingness to consult with the importing business community in troublesome enforcement areas would improve the use of Customs enforcement resources and eliminate the drain on scarce resources available for commercial facilitation. Unless some change is made in this direction the importing business community is, and will continue to be faced with uncertainty and possible disruption of their commercial transactions.

Issuance of Rulings by Customs Headquarters

The importing community is very much dependent on the issuance of legal rulings from Customs Headquarters regarding prospective and current import transactions. It is not unusual for even the least complicated ruling to involve several months from date of receipt of the case at Headquarters to the date of issuance of the decision, and in many cases the delay is far longer.

These delays can be attributed in large part to the fact that staffing in the Office of Regulations and Rulings is at approximtely half the level of seven or eight years ago. The Joint Industry Group believes that action should be taken to correct the chronic understaffing in that office so that Customs may more efficiently assist the private sector through the ruling issuance procedure.

Another related problem concerns the manner in which Headquarters rulings are made available to the public. The Customs Procedural Reform Act of 1978 requires that all precedential decisions including ruling letters, internal advice memoranda, and protest review decisions be published or otherwise made

available to the public. Although a procedure exists for the publication of precedential rulings, that procedure is applied on an ad hoc basis with the result that some rulings are never published even though they represent the current thinking of Customs, and thus will be relied upon by Customs in subsequent transactions involving similar issued. While many decisions of the Customs Service are available to the public on microfiche, the number of published decisions has declined each year from 475 in 1979 to 54 in 1985. The public is less informed than it was before the 1978 Act. Since these rulings will invariably affect the public, the Joint Industry Group recommends that Customs should be required to make a greater effort to publish its rulings on a broader scale either in full or in abstracted form so that the public may be better informed regarding the most current legal positions adopted by Customs.

Rules of Origin

The Joint Industry Group would like to reiterate its concern with the rulemaking activities of the U.S. Customs Service in the area of country rules of origin. We feel Customs actions have been both precipitous, and, possibly preemptive of the legislative process. The Joint Industry Group feels that the whole area of rules for country of origin determinations is too important to leave to administrative discretion. The Group recently participated in the U.S. International Trade Commission hearing on rules of origin, including the provisions to be included in the U.S. Canadian free trade arrangement. We are supplying the Committee staff with copies of our hearing brief. The Joint Industry Group recommends that the Committee examine the actions of the Customs Service in its reinterpretation of statutory and judicial guidelines for rules of origin determinations.

Mr. Chairman, the importing business community thinks of the U.S. Customs Service as a corps of professionals, who know their jobs, who share

their knowledge and advice with importers, and who take pride in the facilitation of commerece within the frame of reference of effective enforcement of customs law. The common perception is that the corps of professionals is being depleted, brought about by a growing lack of adequate resources, principally import specialists operating in the field, which has resulted in an enforcement approach, adversarial in nature, and which impacts legitimate and illicit trader alike. There is a better approach to effective enforcement and commercial facilitation. A part of the answer is the periodic entry system which the Customs is moving toward.

Should the Members or the staff have any questionsn or requests of the Joint Industry Group concerning our testimony we will be happy to respond.

Thank you, on behalf of the Joint Industry Group, for this opportunity to appear before your Committee.

American Association of
Exporters and
Importers 11 West 42nd Street, New York, NY 10036 (212) 944-2230

TESTIMONY

of

the

AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS

by

Bruce Wilson
Director and Vice Chairman, Customs Operations Committee

before the

UNITED STATES SENATE

COMMITTEE ON FINANCE

on the

MANAGEMENT OF THE U.S. CUSTOMS SERVICE

February 26, 1987

Good Morning, Chariman Bentsen, members of the Committee. I am Bruce Wilson, principal in Roanoke Companies. I am a Director of the American Association of Exporters and Importers (AAEI) and also Vice Chairman of its Customs Operations Committee. The Association is a national organization comprised of approximately 1100 U.S. firms involved in every facet of international trade. Our members are active in importing and exporting a broad range of products including chemicals, machinery, electronics, textiles and apparel, footwear, foodstuffs, automobiles, and wines. Association members are also involved in the service industries which serve the trade community such as customs brokers, freight forwarders, banks attorneys and insurance carriers. AAEI is the closest observer of the U.S. Customs Service.

We are pleased to have this opportunity to address the U.S. Customs Service budget and management for Fiscal Year 1988. The funding and management of Customs' commercial operations is of great concern to the Association, as our members deal with U.S. Customs on a day-to-day basis.

The Association and Customs have always dealt with each other in a direct, honest, usually harmonious, but always mutually respectful, manner. Due to this longstanding relationship, the Association does not hesitate to point out problems to or ask questions of Customs. We believe both sides, as well as the public, greatly benefit from this exchange and we are pleased to say that, through discussion, many specific problems are resolved. However, the realities of increased emphasis on narcotic interdiction and budgetary pressures has caused a neglect of the commercial aspects of Customs.

AAEI sympathizes with the position the U.S. Customs Service is placed in every year. Faced with increased demands for drug interdiction, increased emphasis on commercial enforcement (especially in the areas of textiles, apparel and steel) and increased entries to process, the Administration continues to propose budgets which would cut Customs staffing levels. This year is no exception.

The Administration's budget of the U.S. Government Fiscal Year 1988 again proposes drastic cuts in Customs staffing. In fact, the budget will reduce Customs personnel from an estimated level of 15,177 positions in 1987, to only 13,169 positions in 1988, a reduction of over 2000 full-time positions. This attempt to cut-back the staffing and thus, the services of the second largest revenue-producing agency in the U.S. government is unwarranted and counterproductive. No doubt the Customs Service will again support these cuts, maintaining that it can do 'more with less' due to automation. This line of reasoning is simply not the case.

AAEI agrees with Customs that automation is the operational mode of the future. However, given the Automated Commercial Systems' current and full projected capability, the automated system cannot replace qualified import specialists or inspectors. A computer program cannot examine goods, classify merchandise or issue rulings. Customs is to be applauded for its efforts to bring Customs into the 20th century, but it must be recognized that machines are to assist human functions such as inspection and analysis, not replace them.

The large cut in staffing proposed in the FY 1988 Budget is even more perplexing in light of the user fees proposed by the Administration and enacted by the 99th Congress. Last July, Commissioner von Raab responded to a series of questions submitted to Customs by Senator Danforth, then

Chairman of the Finance Subcommittee on International Trade. On the issue of user fees, Commissioner von Raab stated, "[T]he proposed fees cover only costs of providing services, not the enforcement initiatives from which everyone benefits. The included costs reflect Customs commercial operations, including inspections, the processing of the paperwork related to imported merchandise and revenue collection." Once the .22% ad valorem fee was passed, the Administration conceded that the expected $790 million in revenues was a higher amount than actual Customs commercial operations cost (about $490 million) and that was the reason the fee was to decrease to .17% in FY 1988 and 1989.

The FY 1988 budget, if adopted as is, would extend the user fee indefinitely at a level equivalent to .22% ad valorem, while providing for less service due to decreased staffing. This would undercut previous Customs and Congressional assertions that the imposition of user fees would ensure adequate commercial service. Adequate funding without sufficient personnel will do nothing to relieve the strain on commerical operations and will not meet the mandate set by Congress in enacting user fees for the Service to provide reasonable and adequate service. If left unchecked, the obvious contradictions will render secondary the nation's need for competent, prompt and certain commercial service.

Even if Customs staffing were to increase, a commitment to commercial operations must be obtained. There is an unfortunate tendency in some circles to view Customs primarily as a narcotics interdiction agency. AAEI applauds Customs efforts to stem the flow of illegal drugs into the U.S. However, Customs is also charged with the facilitation of international trade. In the past, the Administration has increased the budget and staff

allocated to drug interdiction while continuing its efforts to cut the commercial side of Customs operations.

The past few years have shown that an increase in Customs resources has led to an increase in revenue collected. In 1986, Customs collected over $14 billion dollars in revenue for the General Treasury. In other words, Customs returned $20 for every $1 it was appropriated. And this return was realized without the impositions of user fees. In 1988 Customs is expected to collect $15.2 billion. The U.S. Customs Service is a revenue generating agency, an agency which realizes a 2000% return and has not yet reached the point of diminishing returns. The Administration should not subject the Service to the blind sword of Gramm-Rudman. AAEI urges this Committee, the entire Senate and all Congress to refuse the staffing cuts proposed in the FY 1988 Budget.

The imposition of user fees implies a commitment to the trade community for increased staffing. Certainly, more Customs personnel on the commercial side can mean less processing time of entries and quicker answers to ruling requests. Additional personnel, however, will not force Customs to realize that the commercial side will take care of itself.

There is no doubt that Customs is charged with enforcement of U.S. trade laws. Customs also has a responsibility to facilitate trade. The vast majority of importers and exporters are honest and are willing to work with Customs to improve Customs efficiency. AAEI consistently asks Customs what they are planning and how AAEI can help the Service to achieve its goals.

Unfortunately the Association frequently finds itself surprised by the implementation of a new Customs policy or procedure simply because Customs did not consult beforehand with the business community it services. The record shows lack of consultation and business input has caused Customs to delay implementation dates and amend the policies to reflect the concerns of the business community.

For example, in August, 1984 Customs announced its intention to change the definition of how country of origin is determined, to be effective 30 days later. Regardless of whether Customs was and is correct in its interpretation of the legal and administrative authority to change the definition, the fact remains that Customs, in the space of one month, expected the trade community to change a seventy-seven year old practice. Customs chose to ignore the fact that due to a six-month lead time in many importing businesses, merchandise was already manufactured, labelled, paid for and shipped under the old rule of origin. Only after the predictable outcry by AAEI, its sector-specific groups and others, did Customs postpone the effective date.

The second major example involved Customs Directive 3500-06, issued January 9, 1986, which required the filing of a formal entry on all commercial shipments of textiles regardless of value, thereby eliminating use of the informal entry procedures. The importing public was informed of the directive on January 24, 1986. Only after intense opposition by the trade community did Customs rescind its original effective date of February 1, 1986 and designate March 9 as the new effective date. After a few meetings between Customs and the trade community a clarifying directive,

Number 3500-07, was issued on February 28, 1986, a mere eight days before the effective date of the directive.

Much of the controversy and ill-will generated by the above two instances could have been avoided if Customs had solicited business input before issuing the directives. One last example best serves to highlight the present air of neglect surrounding Customs commercial operations. Last Fall, the Service informed AAEI that in its opinion the statutory authority to continue duty-suspensions for certain items entered under Schedule 9 of the Tariff Schedules of the U.S. expired. AAEI understood Customs position and asked that Customs inform the trade community before collecting duty on Schedule 9 items. On December 31, 1986, New Year's Eve, without any other prior notice, Customs issued a telex at 10:20 p.m. informing the regions that as of 12:01 a.m., January 1, 1987 duties were to be collected on items entered under Schedule 9. AAEI realizes that December was a busy month for Customs. User fees went into effect on December 1, guidelines for manufactures I.D. numbers were being drawn up and vacations interfere with the normal course of business. All in all, however, there is no excuse for Customs short notice on New Year's Eve to the importing community.

The apparent neglect of the commercial side impacts on the trade community in other ways as well. Binding rulings on classification and valuation are issued in response to specific requests by importers so that both parties are certain of the item's classification and duty rate. The number of rulings published the last few years has steadily decreased. This result simply may be due to lack of staff at the Offices of Regulations and Rulings. Whatever the cause, it disrupts the predictability an importer needs to run his or her business.

To its credit, in recent months Customs has actively solicited and encouraged trade community comments on two related issues. After the 99th Congress passed the user fees, Customs asked the trade community for its input on how the funds could be used to maximize the efficiency of the commercial operations side. Customs has held one public meeting, plans to hold another on March 11 and will issue interim regulations on the implementation of the harbor maintence fees set to become effective April 1, 1987. Both initiatives by Customs are good examples of how Customs management should recognize the legitimate needs of importers and exporters and work together with the trade community to make the most efficient use of Customs resources.

While encouraging, the Service's actions to implement the harbor maintenance and user fees will be hollow memories if the proposed budget cuts go through. Reduced staffing, increased political pressure to stop the flow of drugs and increased pressure by domestic industries to emphasize Customs commercial enforcement will lead to an even greater workload on the men, women and automated systems of Customs. These increased pressures will excacerbate the problems facing Customs commercial operations. This Committee and all Congress can increase the efficiency of Customs handling of international trade by exercising your oversight authority to oppose reductions in staff and render Customs more responsive to the needs of importers and exporters. The American Association of Exporters and Importers asks you to do so and looks forward to working with the Committee and Customs to achieve these goals.

Thank you.

STATEMENT SUBMITTED ON BEHALF OF THE TEXTILE AND APPAREL GROUP
OF THE AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS
BEFORE THE SENATE FINANCE COMMITTEE

On behalf of the Textile and Apparel Group of the American Association of Exporters and Importers ("AAEI-TAG" or "TAG"), we submit this statement concerning the management of the U.S. Customs Service. AAEI-TAG is comprised of over one-hundred members representing U.S. importers and retailers engaged in the importation of textile and apparel products. Our membership list is attached.

During the past few years, U.S. imports have grown significantly, increasing Customs workload and generating major pressures on Customs operations. As a result of this increased workload and accompanying pressure, a number of problems currently plague Customs in administering its commercial operations. These problems have had a disproportionate impact on importers and retailers of textile and apparel products, which account for approximately fifty percent total shipments, largely because Customs increasingly has focused its enforcement efforts over the past few years on textile and apparel imports. Delays in entry of apparel, which is seasonal in nature, and dislocations resulting from ill-conceived policies or poor administration, cost importers and retailers, and ultimately consumers, millions of dollars each year.

While the U.S. Customs Service is responsible for effectively enforcing U.S. customs laws, rules, and regulations, it is also responsible for ensuring that U.S. importers receive the information that is necessary to enable them to comply on an orderly basis with such requirements. Unfortunately, Customs has focused almost exclusively on enforcement duties and has neglected key compliance activities such as the dissemination of information to the import community as well as the issuance of "binding" rulings on a timely basis. In addition, the decline in the number of import specialists and commercial support staff, the lack of clear guidelines for inspectors to follow in performing their cargo processing duties, and Cutoms' lack of emphasis on commercial operations all have contributed to the present condition of poor enforcement and undue delays at ports.

The recent proliferation of rulings and changes of administrative procedures and practices have compounded these problems in the textile area. This has created an aura of uncertainty surrounding the entry process and has contributed in a major way to the burden on an already overworked Customs staff.

We believe that it will be impossible for the U.S. Customs Service to perform its complex functions effectively under the reduced budget proposed by the Administration. We, therefore, urge the Congress to appropriate the full funds necessary for Customs to achieve its twin goals of enforcement and compliance and that, if such funds are appropriated, they not be diverted to enforcement activities. However, we also believe that the effective administration of the Customs Service requires more than just the appropriation of additional funds; it requires a number of changes in procedures and policies as well. Such changes include, among other things, affording U.S. importers and retailers of textile and apparel products procedural due-process rights pursuant to the requirements of the Administrative Procedures Act ("APA") and the Regulatory Flexibility Act, providing these importers with the necessary information and assistance they need, facilitating and streamlining the process of cargo entry, and improving overall Customs-importer relations.

PROBLEMS AFFECTING TEXTILE AND APPAREL TRADE

Procedural Due Process: The Administrative Procedures Act and Regulatory Flexibility Act

In recent years, the U.S. Custom Service has issued with increasing frequency new regulations, directives, rulings, and telex instructions which implement major policy or procedural changes affecting textile and apparel importers. In so doing, Customs repeatedly has failed to publish notices in the Federal Register, solicit either formal or informal comments, provide U.S. importers and retailers of textile and apparel products with adequate time to adjust to such changes, or undertake regulatory impact analyses of such changes. These practices violate the strict requirements of the APA and the Regulatory Flexibility Act. Moreover, these practices have led to ill-conceived policies and requirements and have unnecessarily disrupted importers' business operations.

The provisions of the APA (5 U.S.C. §553) require, among other things, that a federal agency engaging in formal rulemaking procedures publish the proposed rule in the Federal Register and afford "interested persons" the opportunity to submit written views or arguments on the proposal. While the foreign-affairs exception may be applicable under certain narrowly prescribed circumstances, Customs' consistent failure to provide APA due process goes beyond this limited exception.

Perhaps the most notorious example of Customs' failure to provide advance notice and an opportunity to comment involved the promulgation of the new country-of-origin rules for textile and apparel products. While arguably these changes fell outside the APA requirements under the foreign-affairs exception, there was no overriding reason not to give importers and retailers advance notice or an opportunity to comment on these rules which made sweeping changes in the criteria used to determine the country of origin of textiles and textile products, overturned long-standing judicial and administrative percedents, and resulted in severe disruption of importers' business operations.

Similarly, on May 13, 1986, Customs Headquarters issued a confidential internal telex establishing new requirements for the reporting of quota charges. In addition to not publishing a notice in the Federal Register, Customs failed to afford U.S. importers and retailers with an opportunity to comment upon the implementation of the telex. As a result, the instructions as first issued were incompatible with commercial practice. Nonetheless, Customs denied the entry of merchandise that failed to comply with these instructions even though compliance was impossible. Ultimately, Customs had to issue three "amending" required telexes that resulted in further confusion and disruption.

Another example of the lack of prucedural due process was the issuance of Customs Directives 3500-06 and 3500-07 in which Customs changed the existing practice for entry of samples valued at $250.00 or less. These directives made such products subject to "live" formal entry requirements which would have resulted in a delay of several days at a minimum for these time sensitive shipments. Customs imposed these onerous burdens on the erroneous assumption that such entries involved massive fraud. In fact, Customs did not understand the commercial realities of the textile and apparel importing business which require

a large number of samples for purchase decisions, advertising, and quality control.

A final example was the issuance of T.D. 86-56 ("T.D.") which overturned the long-standing administrative practice of allowing the entry of merchandise accompanied by visa with a price different from that of the visa-stamped invoice. This directive was intended to eliminate dual pricing situations which are contrary to the requirements of the exporting country but not improper under U.S. law. However, as drafted, the T.D. also prohibits the entry of legitimate imports sold through middlemen. As a result, months after the issuance of this decision, entries of this sort are still being held up.

In addition, Customs' repeated failure to solicit either formal or informal comments, as well as to undertake regulatory impact analyses, violates the Regulatory Flexibility Act (the "Act"), 5 U.S.C. §§ 603, 604, and its implementing directives found in Executive Order 12291 of February 17, 1981. In accordance with this Act and its implementing Executive Order, a federal agency must undertake a regulatory impact analysis whenever it finds that a proposed action constitutes a "major rule." The term "major rule" encompasses, among other things, any regulation that is likely to result in:

> (1) an annual effect on the economy of $ 100,000,000 or more; [or]
>
> (2) a major increase in cost or prices for consumers. . . .

Many of Customs' initiatives have fallen within the purview of this term and, therefore, should have been subject to the requirements of the Act. In the case of the recent promulgation of the new country-of-origin regulations for textiles and textile products, Customs' action adversely affected almost all shipments of such products to the United States. Since the value of such merchandise in 1984 was well over U.S. $10,000,000,000, the regulations easily satisfied the first criteria of Executive Order 12291. Similarly, the additional burdens imposed by Customs' Directives 3500-06 and 3500-07 alone cost U.S. importers several hundred million dollars. Yet in neither of these instances did Customs attempt to evaluate the impact of its change.

Woefully Inadequate Time To Adjust

A major source of disruption to importers and retailers as well as to Customs own operations is Customs' repeated failure to give importers and retailers adequate time to adjust to major policy or procedural changes. For example, in March, 1986, Customs published a ruling which changed the classification of certain belts and provided a ninety-day notice period before its implementation. However, prior to the end of that ninety-day period, Customs issued a clarification to resolve questions resulting from the original ruling and delayed the effective date of that ruling from June 10, 1986, to September 1, 1986 — but failed to publish notice of the delay until August 20, 1986.

Similarly, when Headquarters originally issued Customs Directive 3500-06 regarding samples on January 9, 1986, it set the effective date just 23 days later, on February 1, 1986. When Headquarters issued an amending directive No. 3500-07 (necessitated again by the failure to solicit comments first), it

provided importers with an adjustment period of only nine days before compliance. Because of these short notice periods, it was impossible for U.S. importers to adjust to the unanticipated delays in obtaining their samples.

Even when Customs complies with the thirty-day notice requirement of the APA, such compliance is woefully inadequate as a period of adjustment. Because of the nature of the apparel business, importers must establish their merchandise plans six months to a year before delivery. Moreover, importers must confirm their purchase orders at least three months before the date of delivery. Any change that takes effect without a ninety-day or greater period of final notice inevitably causes severe business dislocations and hardship.

As a consequence, the thirty-day period of advance notice initially afforded by Customs when it promulgated the interim country-of-origin rules did little to offset the potentially severe disruption and hardship that would have resulted. Similarly, the sixty-day period of notice granted by Customs in issuing T.D. 86-56 (dual invoicing directive) fell far short of providing importers with enough time to ensure orderly compliance.

Lack of Necessary Information for Accurate Entries

At present, Customs has no procedures to notify the public on a systematic and comprehensive basis of changes of practice or procedures affecting textile and apparel imports. Customs Headquarters typically mails correspondences containing significant procedural and substantive changes affecting textiles and textile products to its various regions and districts, usually without publishing any kind of notice to inform the public or importers of such a change. In some instances, Headquarters instructs field officials either to disseminate the notice, if unclassified, or to draft unclassified notices for dissemination where the Headquarters notices are deemed confidential.

This entire process is at best random. Customs' personnel often fail to post copies on certain bulletin boards or otherwise distribute them, sometimes distribute blank copies, or even distribute the copies after the effective date of a directive. As a result, importers are unable to take action to ensure complaince with these new procedures. Moreover, in those instances in which Headquarters has sent directives that it unnecessarily or incorrectly had categorized as "classified," importers have been unable to examine the contents of the directives themselves and have had to rely on the interpretation and redrafting of the field offices.

An example of importers' inability to obtain nec[illegible] information occurred again in conjunction with the Customs Directives regarding samples. Customs determined that because of these directives it had to change its previous practice regarding mutilation of samples. However, it took Customs over one year to issue the mutilation guidelines that were necessary to enable importers to satisfy the mutilation requirement. During the interim, Customs had circulated multilation guidelines for internal but not public comment. Nevertheless, Customs denied the entry of merchandise incorrectly mutilated and refused to allow importers to correct mutilation errors.

Similarly, Customs at present has inadequate classification guidelines. In 1979, the U.S. Customs Service developed guidelines for the classification of categories of apparel products. Since that time, however, Customs has failed to update these guidelines on a formal and systematic basis. Particularly in view of constantly changing styles of apparel, the absence of updated classification guidelines has created a great deal of uncertainty and disagreements between Customs and importers and has resulted in seizures of merchandise based upon a lack of information.

Communication even on an informal basis between importers and Customs is also inadequate. Importers are finding it increasingly difficult to obtain meaningful pre-import conferences, the major purposes of which are: (1) to determine whether or not it is necessary to make a ruling request; (2) to inform importers that they may have a specific problem in importing certain merchandise; and (3) to ascertain the correct visa for or marking of an imported article. The decline in meaningful pre-import conferences has resulted in an increase in the number of unintended and unknowing violations growing out of mere ignorance or uncertainty.

Lack of Up-To-Date "Binding" Rulings

Because of a chronic lack of manpower, importers are finding it extremely difficult to obtain rulings on a timely basis. Rulings issued by the New York Region usually take four to six months, while a response to a request for review at Headquarters takes an additional six to nine months. Moreover, what often emerges from the entire administrative process is not a "binding" ruling at all, but only an "advisory" letter that merely reflects Customs' "view" or "opinion" on a particular matter.

Rulings that Customs does finally issue may eventually appear on microfiche. However, microfiche materials are usually six months behind schedule and often do not include all the recent rulings. Customs maintains that it does not have the resources to prepare and disseminate even a list of rulings, let alone the rulings themselves, through either publication or the mails.

Finally, it appears that the Office of Regulations and Rulings ("ORR") consciously refrains from publishing its rulings whenever possible to avoid creating an established and uniform practice.

Again, the absence of timely rulings and accompanying information results in needless importer errors and shipment delays that burden both the importers themselves and the Customs Service.

Lack of Uniformity

Largely as a reuslt of the problems discussed above such as inadequate notice, failure to solicit comments, the lack of necessary information, and the failure to issue "binding" rulings, there has been an increase in the inconsistent and nonuniform administration of the U.S. customs laws. The procedures or criteria relied upon by one Customs district to make decisions often are not the same as those of another district. In the case of Headquarters' confidential, internal telex of May 13, 1986, regarding the treatment of quota charges, there have been notable differences among districts

in implementing the instructions of that telex. For instance, the San Francisco district has denied the entry of merchandise for an allegedly deficient quota statement, while the Los Angeles district first releases such merchandise and then requests additional information.

Inordinate Delays in Clearing Entries

Because of the growing complexity of the U.S. Textile Import Program, as well as other factors, importers are experiencing greater delays and time lags in gaining the release of their merchandise. Approximately five years ago, imported textile and apparel products cleared the New York seaport in one to one and one-half working days. Today, it takes New York Customs officials three to five days during nonpeak periods and anywhere from seven to ten days during peak periods to clear entries. Clearance of merchandise has been a problem in Charleston, too.

The Los Angeles seaport has witnessed a similar trend. Approximately five years ago, imports cleared this port in one to two days during nonpeak periods. Today, it takes four to five days to do so. During peak periods, inspectors at the Los Angeles port can take as long as six to eight days to clear textile and apparel entries.

The problem is multi-faceted. Verifying compliance with new, complex rules and requirements for textiles is an additional step that prolongs the clearing process. Because of the complexity of the new country-of-origin rules, for instance, merchandise has been known to remain in a port for as long as five weeks because Customs officials themselves did not know which country-of-origin label should appear on a product.

In addition, various Customs districts lack the time to develop procedures and the manpower or resources to implement Customs everchanging practices, policies, and procedures. For example, the implementation of Customs Directive 3500-07 that subjects numerous, small samples shipments to more complicated formal entry requirements has placed a significant additional workload on Customs officials at many ports.

The cost of this general slowdown in the clearance process is significant. Delays of as little as five days for textiles and textile products result in needless demeurrage and storage charges.

Reliability of Customs Quota Charges

Another factor contributing to Customs' workload and the resulting entry problems is Customs' responsibility for administering quotas. In recent months, there has been an increasing number of errors committed by Customs in charging quotas, resulting in merchandise being improperly subject to an embargo. This problem has become so severe that we understand the Commerce Department has formally raised it with Customs in recent months. This problem has continued into 1987. In one instance, an entry of 1,590 dozen was charged as 159,000 dozen. Apparently, no edit process exists to detect these errors.

Customs Relations With and
Attitudes Visa-a-Vis Importers

Apart from the problems of lack of resources and insufficient activities to ensure that importers are aware of and able to comply with Customs requirements, we believe that there has been a deterioration in relations between Customs and the import community. There is a growing perception at the Customs Service that personal advancement and recognition will occur only through detecting violations, rather than from assisting importers in complying with Customs rules and regulations. Customs views U.S. importers of textile and apparel products with extraordinary suspicion and consequently has targetted this group for potential fraud violations. District officials, as a result, attempt to comply with this self-fulfilling prophecy by treating minor, technical violations — most frequently engendered by the lack of information or inadequate time for implementation — as "fraud".

Since the importation of textiles and textile products involves highly technical and complex issues, it is nearly impossible for all U.S. importers — the sophisticated and unsophisticated alike — to anticipate in every instance the proper manner to enter their products. Indeed, in many instances neither importers nor the Customs officials themselves know the precise requirements for entry such as proper labelling under the new country-of-origin regulations. While we support Customs' efforts to apprehend individuals who are in violation of import regulations, we believe that Customs has lost sight of the fact that most importers are conscientious, law abiding businessmen who may make mistakes because of a lack of information or simple misunderstandings.

Because the detection of almost any violation — no matter how minor — is handsomely rewarded, and because genuine instances of fraud are very difficult to detect and require more time and resources to pursue, Customs officials tend to focus on minor, technical violations based on honest mistakes rather than on genuine instances of fraud based on deceitful intent. Customs is therefore attempting to transform honest mistakes or technical violations into genuine fraud cases. The lack of in-depth analysis of many of these cases of "fraud," moreover, has led to the creation of some extremely dubious precedents.

In one case, Customs seized shipments of certain shirts, designed and sold as unisex garments, and instituted a penalty case against the importer, because the importer had submitted a visa for a unisex shirt rather than one for men's shirts. Customs seized the merchandise and issued a pre-penalty notice notwithstanding the fact that just two days before the entry of the shirts, the importer had received a verbal confirmation from the national import specialist that a unisex visa was proper. In another case, an importer requesting advice on the chief value of a multi-fabric apparel item was informed to enter the merchandise at his own risk. Upon entry, the merchandise was seized for misclassification, based upon a lab report that Customs had possessed at the time of the importer's request.

Customs' recent proposal to modify the standard of fraud as it currently exists under Section 592 of the Tariff Act of 1930, as amended, will further increase the number of inadvertent mistakes categorized as fraud. It appears that the pending proposal is seeking to remove all elements of intent and thus lower the standard of fraud below that of gross negligence and perhaps to that of

negligence. The sole reason advanced for this extreme proposal is that Customs believes the burden of establishing intent is much too onerous.

RECOMMENDATIONS

The preceding discussion suggests that to improve the management of the Customs Service, Congress must reject the Administration's request to reduce the budget of Customs. Congress must realize, however, that such action is only the first step in improving the overall administration of the Customs Service. As detailed below, improvements in Customs procedures, particularly in communications with the import community, that require a minimum amount of additional federal expenditures will enable Customs to fulfill its twin goals of enforcement and compliance and improve the quality of its commercial operations.

Due Process Reform

Unless it is absolutely necessary to implement such changes immediately, the Customs Service should publish in accordance with the APA all significant policy changes and procedural changes in the Federal Register (as well as in the Customs Bulletin) and solicit comments in addition to providing a period of at least ninety days before implementation. This requirement would enable the U.S. Customs Service and importers to discuss the proposed rules and the potential impact thereof before implementation and allow adequate lead time to ensure compliance with a minimum amount of disruption to business operations. Moreover, Customs should prepare in accordance with the Regulatory Flexibility Act a detailed regulatory impact analysis for all such changes legitimately falling under the purview of a "major rule."

Customs should also limit its current practice of issuing "classified" directives to those narrow instances in which it is absolutely necessary to do so. If Customs decides that a particular directive must be "classified," it should issue the directive in an unclassified version, sanitizing the highly sensitive parts thereof.

Finally, it is essential that Customs establish better channels of ongoing communication with importers, especially insofar as such communication relates to pending policy changes. Customs management should hold regular and open meetings with textile and apparel importers — perhaps in conjunction with, or at least similar to, the monthly or semi-annual meetings held with brokers' associations (e.g., NCBFAA or Northern Brokers Associations) — with the agenda being proposed by both sides.

Customs should also sponsor periodic joint seminars with textile and apparel importer groups that would cover issues directly related to textiles and textile products such as proper tariff classification, proper country-of-origin for labelling, quota, tariff, and marking purposes, and proper visa procurement.

Improved Dissemination of Necessary Information

Since the main objective of the Customs Service is to ensure compliance with its laws, rules, and regulations, the widest dissemination of information will have the greatest impact in achieving this goal. In this regard, we propose at a minimum that Customs return to its former practice of publishing a list of all important rulings. Furthermore, it should also publish a list of all directives, telexes, and any other similar important information and accompany such a list with explanatory notes in the Customs Bulletin. It is less costly to disseminate information than it is to increase support-staff personnel to perform enforcement-related tasks.

Similarly, we propose that Customs mail all rulings, notices, directives, telexes, and any other similar information directly to importer-related groups such as AAEI-TAG on a paid-subscription basis if necessary to defray the additional costs. Customs should also establish in each district "public reading rooms" that have an adequate supply of the above-listed materials as well as adequate photocopying facilities.

Headquarters and the New York Region should issue fair and consistent "binding" rulings when properly requested, rather than merely writing "advisory" letters. In order to do so, it may be necessary for Customs to take steps to improve channels of communication with the requesters. In issuing such rulings, Customs must establish and adhere to strict time limits, so that importers can conduct their businesses in a timely and orderly fashion, without fear of a future penalty or liquidated damage claim. In this regard, Customs should respond to all ruling requests within a period of at least 60 days. It is essential, therefore, that there be a sufficient number of personnel to respond to all such requests.

Moreover, guidelines and instructions for various problem areas, which take into consideration the commercial realities of importing, must be issued on a timely basis and given wide dissemination. For example, in the specific case of merchandise seizures and accompanying delays because of inaccurate weight, Customs should develop and publish a uniform standard for weighing textiles and consider how to treat expected and unavoidable deviations. In this regard, Customs might consider granting entry to shipments that are marginally overweight (i.e., de mininis rule of perhaps 5 percent or greater), particularly when there is no evidence to indicate a general pattern of overweight shipments.

Improved Clearance Procedures

Successfully effecting these procedural due-process reforms and disseminating up-to-date information on a timely basis, will help to reduce the chance for errors that contribute to present delays. In addition, increased commercial staff levels at ports of entry along with a greater emphasis on personnel training and education, particularly in the area of textiles and apparel, will significantly improve the overall processing of entries. To maximize training and educational efforts, Customs should avoid unnecessary job rotations and changes; rather, it should seek to maintain continuity and expertise, especially in the very complex textile and apparel area.

A fundamental change of direction from within the top ranks of Customs is needed to give greater priority to compliance and to reward Customs officials contributing to improved compliance in the same way improved enforcement is rewarded. In addition, Customs should direct more of its resources and manpower into its commercial operations as a cost effective method for ensuring compliance.

Headquarters should also encourage import specialists to participate in pre-import conferences and to take an active role in assisting importers in complying with Customs' rules, rather than allowing importers to make honest mistakes out of mere ignorance. Initiatives such as these will reduce the number of frivolous fraud cases and thus give Customs agents and fraud teams more time to focus on the genuine penalty 592 cases.

Conclusion

In 1973, the Secretary of the Treasury changed the name of the U.S. Bureau of Customs to that of the U.S. Customs Service to reflect that the mission of that agency was to serve the public, including the importing public. Customs, however, has lost sight of this mission over the years. Although we recognize that the Custom Service performs many critical enforcement related duties, especially in the area of narcotics interdiction, we believe that it is time for Customs to rediscover its mission of service. We firmly believe that improving communication with the importing community is an excellent first step in achieving this goal. Adopting and implementing the recommendations as noted above will then further this goal as well as improve Customs' dual responsibility of enforcement and compliance.

TAG MEMBERSHIP LIST - February 1987

CHILDRENS APPAREL

Baby Togs
Baby Fair
Renzo Co. Inc.
Shalom Childrens Wear
Victor B. Handal Inc.
Playknit/Steven Barry

MENS APPAREL

Enro Shirt Co.
Generation One Apparel
Irving B. Reder & Co. Inc.
Squire of California
Stage II Apparel Corp.

WOMENS APPAREL

Abe Schrader
Abvien Imports
Aparacor
Ciao Sport Ltd.
Esprit de Corp.
Jones Apparel Group
Laura Associates
Misty Valley Inc.
Morsly Inc.
Porterhouse Ltd.
RIG Knitwear
Marisa Christina
Miss O
Swell Wear
Segerman International
Trigere
Ashford Fashions
Ann Stevens Inc.
Betty Hanson
20th Century Wear

MENS and WOMENS APPAREL

Adventura Ltd./Shipton
Bernard Chaus Inc.
Frank L. Savage (sweaters)
Generra Sportswear Inc.
Hampco Apparel Inc.
Louis Barasch Inc.
Smart Shirts

TAG MEMBERSHIP LIST - February 1987 (continued)

The Gap Stores
U.S.A. Peninsula Inc.
Winer Sportswear Inc.
Rose Cloak & Suit
Fairhill Industries
Murjani

DEPARTMENT STORES

Alexanders
Allied
Associated Merchandising Corp. (AMC)
Carter Hawley Hale
Dayton Hudson (Target Stores)
J.C. Penney
K Mart
May Dept. Stores
Mervyn's
Saks Fifth Avenue
Sears Roebuck & Co.

TEXTILES and Other MANUFACTURERS

Abacus	- Textile & Machinery
Choril America	- Textile, Chemicals, Machinery
Arbill	- Industrial, Rainwear, Work Gloves
Fabil Mfg.	- Apparel & Giftwear
Latex Glove Co.	- Apparel, Rubber, Chemical, Metal
Lubman & Co.	- Apparel, Giftware, People's Republic of China Specialist
Mast Industries	- Apparel & General Merchandise
Sunrise Knitwear	- Textiles & Apparel
Irving R. Boody	- Textiles, Waxes & Fatty Acids
Frederick Atkins	- Knitwear, Metalware & Decorative Items

HARDGOODS

Cost Plus Inc.
Fingerhut Corp.
Hiraoka New York Inc.
Newman Importing Co. Inc.
Variety Stores
Performance Trading
Sanroy Corp.
Scope Imports

TEXTILES

American Kynol
Jackson Fabric Associates
R.L. Pritchard Co.

TAG MEMBERSHIP LIST - February 1987 (continued)

Sigmatex
Nortex International Inc.
East Bay Textiles Inc.
HMS International Fabric Corp.
Supreme International

ASSOCIATIONS

American Fair Trade Council

BROKERS

Arthur J. Fritz
Gladish & Associates
Carmichael International
M.G. Maher & Company
Wolf D. Barth Company
Bostrum Warren

MISCELLANEOUS

U.S. Lines	- Steamship Carrier
Bag Bazaar	- Handbags
S. Betesh & Co.	- Handbags & Accessories
York Luggage	- Luggage
E.S. Luther Inc.	- Represents Importers & Manufacturers
Nelson Recreation Products	- Sporting Equipment & Textiles
Nissho - Iwai American Corp.	- Machinery, Metals, Chemicals, Textiles
Spiegel	- Mailorder
Plastic Safety Products	- Safety Products
Jacob Ash	- Gloves & Rainwear
Magid Gloves	- Gloves
Totes Inc.	- Rainwear

NOT LISTED

HWL Associates
Heartland Co. Ltd
Lapson International
Paul Reed Inc.
Rodolph Inc.

The CHAIRMAN. It is good to have you, Mr. Lamar.
Mr. Kent.

STATEMENT OF J.H. KENT, WASHINGTON REPRESENTATIVE, NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF AMERICA, INC., WASHINGTON, DC

Mr. KENT. Mr. Chairman, I am J.H. Kent, Washington representative to the National Customs Brokers and Forwarders Association. Last year we had an opportunity to discuss several issues that are of real concern to our industry. In the intervening months, little progress has been made.

Again this year, Customs has failed to request sufficient resources to meets its needs and obligations. The Service continues to claim automation as a panacea for Customs operations. The inbound system, so important to the areas of the country represented on this committee, continued to be eroded through a calculated effort to destroy its commercial viability, and the Customs Service continues to take a short path to establish procedures, ignoring clear statutory dictates in order to reach its own policy objectives.

There are also some additional issues that I think are vitally important for the Finance Committee to hear first hand from our community. The user fee dedicated fund is not achieving the goals intended by this committee. It needs to be retooled to respond to the demands of Customs, commercial operations, and to keep faith with the importing public who thought they would be paying for improved services.

To begin with, suffice it to say that not one penny of the user fee collected since December has gone to pay for customs services. These funds are accumulating and are unlikely to be applied to the fiscal year 1987 appropriation.

For its part, OMB has claimed this fund as revenue, dictated that a rescission be requested from Customs' fiscal year 1987 appropriations, and declared that any application of the present account will jeopardize Gramm-Rudman deficit targets. In essence, the linkage between the Customs user fee and funding of commercial operations has been destroyed this year, and OMB is attempting to cut funding even further.

This has resulted in false expectations and budgetary chaos. The answers, we believe, are in the alternative—either eliminate the user fee or restructure last year's law to reestablish the link between the fee and customs commercial services. The latter may require some technical revision of the reimbursable account concept, more compelling language to ensure that Customs uses these funds as Congress intends, and perhaps some additional fine tuning.

However, for the present, our conclusions are inescapable that the user fee is not working and needs your attention.

The second issue of major concern is central examination, which is a new Customs system for channeling commercial cargo to a single point within a port for Customs inspection. The Customs Service has imposed new and substantial costs on American business for services that properly should be included within Customs' own budget. Moreover, in its across-the-board application of the policy, Customs has ignored local circumstances.

And you will see in our testimony, Mr. Chairman, an example from Loredo which illustrates how counterproductive uniformity can become.

Mr. Chairman, I am very pleased to be here today and look forward to your questions.

The CHAIRMAN. Give me that example again.

Mr. KENT. Yes, sir. At the border at Loredo, commercial cargo is brought across the border into an enclosed lot. Traditionally, over the years, that is where examination has taken place. And that, in effect, has been a centralized examination point. Now, under the procedures at Loredo, all those goods will then be sent off to a second lot, removed from the path to which they are headed, and examined at the second lot at a central location.

And that removal is a very, very costly matter for importers or for people engaged in commerce there.

[The prepared written statement of Mr. Fritz follows:]

TESTIMONY OF ARTHUR J. FRITZ, JR., PRESIDENT

NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION

BEFORE THE

SENATE FINANCE COMMITTEE

HEARINGS ON CUSTOMS AUTHORIZATION

FEBRUARY 26, 1987

Mr. Chairman. I am Arthur J. Fritz, Jr., President of the National Customs Brokers and Forwarders Association and Chairman of Fritz Companies, Inc., a nationwide company of customs brokers and freight forwarders providing an extensive range of services in international trade. As you know, customs brokers provide the private sector interface with the U.S. Customs Service and facilitate the documentation that is necessitated by the importation of a product, payment of duties and observance of the laws of the United States. Last year I had the opportunity to discuss several issues of real concern to our industry. In the intervening months, little progress has been made. Again this year, Customs has failed to request sufficient resources to meet its needs and obligations. The Service continues to claim automation as a panacea for Customs operations. The In-Bond System, so important to the areas of the country represented on this Committee, continue to be eroded through a calculated effort to destroy its commercial viability. And, the Customs Service continues to take the short path through established procedures, ignoring clear statutory dictates in order to reach its own policy objectives.

I will not however repeat last year's testimony. It is on the record and is pertinent today. There are instead several additional issues that I believe are very important for the Finance Committee to hear firsthand from our community:

1. The user fee dedicated fund is not achieving the goals

intended by this Committee and needs to be re-tooled to respond to the demands of Customs commercial operations and to keep faith with the importing public, who thought they would be paying for improved services.

2. As Customs establishes a new system of "centralized examination" (that is, channeling commercial cargo to a single point within a port for Customs inspection), the Customs Service has imposed new and substantial costs on American business for services that properly should be included with Customs' own budget. Moreover, in its across-the-board application of the policy, Customs has ignored local circumstance - exemplified in Laredo, Texas - for the sake of consistency.

3. Customs has proposed a radical departure from traditional definitions of "fraud", stripping intent from the meaning of the term in order to arm itself for increasingly confrontational enforcement tactics in the commercial sector.

4. Customs is facilitating the processing of courier-transported merchandise, providing services unavailable to competitors in the trading community and shortcutting Customs' inspection processes to the detriment of its collections. We are particularly concerned that this is disruptive of broker-importer

relationships and ignores statutory requirements.

CUSTOMS USER FEES

In 1986, this committee, together with the House Ways and Means Committee, responded to budget demands by establishing a Customs user fee of 0.22 percent ad valorem, based on the appraised customs value of the imported merchandise. That rate was to be dropped to a ceiling of 0.17 percent for FY 88 and FY 89, with provision that the amount could be reduced even further to reflect appropriations below authorized levels for commercial services. The purpose was clear: the Committee sought a one-for-one match between the user fee revenues and Congressional appropriations for Customs' commercial operations. To cement this, the Committee established a dedicated fund to which all Customs user fee proceeds must be deposited. That fund was designed solely to fund Customs' commercial operations. The Committee wrote into statute the philosophy that importers were paying for Customs services through this fee, even to the point that it forbade collections of charges for inspection and clearance over and above the user fee.

Candidly, NCBFAA opposed the user fee. We believe that it is a tax and nothing else. We stressed that it was GATT illegal and, indeed, that charge will be pursued by several of our GATT trading partners. And, we objected that one segment of the public should not have to bear the costs of providing revenues

that were properly the obligation of the general public. It was, we said, tantamount to paying a fee to file your income tax return.

The Committee nonetheless overrode these concerns and it is not our intent today to revisit those issues. We are concerned however that the Office of Management and Budget (OMB) is attempting to undo your work, that Congress has not yet completed the details of truly "dedicating" the fund, and that we will continue to witness Customs' intransigence to the obligation of applying adequate resources for commercial operations.

To begin, suffice it to say that not one penny of the user fee collected since December has gone to pay for Customs services. In the crush of legislation at the end of the 99th Congress, the OBRA bill (P.L. 99-509) providing for Customs user fees passed almost simultaneously with the FY 87 Continuing Resolution appropriating funds for the Customs Service. Consequently, there was no specific provision in the Continuing Resolution directing that Customs' commercial operations be funded from the user fee dedicated account. These funds are therefore accumulating and are unlikely to be applied to the FY 87 appropriations.

For its part, OMB has claimed this fund as "revenue", dictated that a rescission be requested from Customs FY 87 appropriations, and declared that any application of the present

account will jeopardize Gramm-Rudman deficit targets. In essence, the linkage between the Customs user fee and funding of commercial operations has been destroyed this year and OMB is attempting to cut funding even further.

This has resulted in false expectations and budgetary chaos. The Customs overtime situation offers an appropriate illustration. As we noted, the OBRA law prohibits collection of reimbursement for Customs' overtime costs for cargo clearance. Instead, these costs were to be borne by the user fee account. After December 1, 1986, the effective date of the user fee statute, Customs granted overtime almost upon request. A sign of this was the fact that many inspectors reached their quarterly overtime "cap" and the agency at the district level was concerned about meeting overtime demand. Now, as Customs has realized that there is in fact no recourse to the user fee account and is unable by law to collect overtime reimbursement, the agency has sharply cutback overtime services. A notice from Customs in Minneapolis indicated that overtime would be limited to "perishable" items and a highly limited class of other merchandise. A dilemma results: an importer who urgently needs overtime services cannot even offer to pay for the service and budgetary constraints make overtime increasingly unavailable.

Coincidental to this squeeze, Customs has engaged in sharply increased drug enforcement activity. An article in the New York Times detailed this committee's hearings in Laredo and

Brownsville and noted the increased delays along the Southern Border. The situation in Texas is severely compounded by budgetary constraints and overtime restrictions.

The answers, we believe, are in the alternative: either eliminate the user fee; or, restructure last year's law to re-establish the link between the fee and Customs' commercial services. The latter may require some technical revision of the reimbursable account concept, more compelling language to ensure that Customs uses these funds as Congress intends, and perhaps some additional fine-tuning. However, for the present, our conclusions are inescapable that the user fee is not working and needs your attention.

EXPENSES OF CENTRALIZED EXAMINATION

We are concerned over an increasing trend towards charging Customs' expenses in clearing cargo to importers. It had been the rule, for as long as anyone could remember, that the usual and ordinary costs and expenses incurred by Customs in clearing merchandise, such as examination and inspection, were treated as a normal part of the costs of operating Customs - as they properly should be. Under the former system, these expenses were charged to the importer only where he requested examination outside the normal channels, for instance, at his warehouse or premises, or after normal Customs operating hours. In these instances, the importer was rightfully charged for Customs'

expenses, because he was receiving a clear benefit at his request. However, within the past three years or so, Customs has changed the system, and charges most of these expenses to the importer as involuntary expenses.

"Centralized" examination is an excellent case in point. In a series of directives (generally implemented without benefit of "notice of proposed rulemaking" under the Administrative Procedure Act,) Customs has eliminated the element of choice to an importer in selecting the kind of examination (i.e., whether chargeable or non-chargeable) and has also decided that all expenses of such examination must be borne by the importer. See Customs Manual Supplement 3275-01 of January 17, 1983; Customs Directive 3270-01 of December 3, 1984; Customs Directive 3243-03 of July 8, 1986; and Customs Directive 3270-03 of January 5, 1987 completing the process by establishing privately-operated "centralized examination stations" under which certain cargo must be sent for inspection. We are fearful that under the most recent directive, the private ownership of these new stations may, in the absence of proper supervision and regulation by Customs, charge exorbitant and monopolistic fees to importers, whom, it must be stressed, realistically cannot avoid use of these facilities.

Charging the importer such expenses, which traditionally were paid out of Customs' budget, violates the provisions of Annex 5.4 of 1965 Convention on the Facilitation of International

Maritime Traffic ("The London Convention"), which entered into force with respect to the United States on May 16, 1967 (18 U.S.T. 410, TIAS 6251). A provision of this Convention states that "the normal services of public authorities at a port should be provided without charge during regular working hours". Obviously, inspection and release of imported goods is a "normal service" of the Customs authorities of most nations, and should not be "privately" charged to the importer.

Additionally, we refer to the relationship between the new .22% "user fee" assessed on most entries of imported merchandise under Public Law 99-509 and these expenses of examination. Section 8101(c)(1) of Public Law 99-509 prohibited Customs from imposing charges for cargo inspection, clearance, etc. over and above the new "user fee". Obviously, this prohibits direct charges by Customs of this nature. It is not clear, however, whether the prohibition does or should apply to indirect charges mandated by Customs requirements but collected by the private sector. We have urged Customs that the prohibition should apply in case of "centralized examination station" costs (see Attachment A); we are less than optimistic that Customs will agree and we therefore urge Congress to amend the law in this respect. It is manifestly unfair to charge importers the .22% "user fee", dedicated in part to pay for Customs' expenses of inspection and clearance, yet ask importers to pay what are essentially Customs charges for the same functions that Customs formerly performed but are now effected by the private sector.

Finally, NCBFAA has been alerted to instances where, in some districts, across-the-board application of central examination may not make sense. The Texas customs brokerage community has particularly strong feelings about this issue. In Laredo, commercial vehicles are permitted to move across the border to a holding "lot" where documents are presented. Examinations generally take place in the lot, a practice that has been observed for many years. It is, as a practical matter, a centralized examination area. Now, new Customs policy dictates moving cargo into a second off-site area for examination. The Texas group considers this a needless relocation, at great expense, to accomplish generally the same results. NCBFAA recommends that district directors be given some latitude in establishing centralized examination sites and that great care be taken to avoid needless additional costs and delays.

CUSTOMS' PROPOSED REDEFINITION OF "FRAUD"

In a Federal Register notice of December 10, 1986, Customs proposed a radical, illogical and unsound reformulation of the concept of Customs "fraud" within the context of the penalty and seizure authority contained in the 19 U.S.C. 1592. Customs proposes to remove the traditional requirement of intent to defraud the revenue or to otherwise violate U.S. law, and to substitute a test which requires merely that the alleged "fraudulent" act or conduct was done "voluntarily or

intentionally". This is an alarming development to the importing community and one which clearly highlights Customs' obsession with enforcement concerns to the detriment of elementary administrative justice and due process. In our submission to Customs (see Attachment B) we maintained that the proposed redefinition of "fraud" would --

(a) arbitrarily reverse a long-standing administrative practice;

(b) completely depart from established law;

(c) substantially and unjustifiably harshen the impact of Section 1592 on the accused citizen;

(d) have the effect of negating the "gross negligence" category of culpable offenses contained in existing law and regulation, leaving only the extreme choices of "fraud" versus "ordinary negligence"; and

(e) comprise an ultra vires attempt to amend the statute, thereby usurping Congress' prerogatives.

We urge that the Committee support our objections (shared by many other private-sector groups) and specifically disapprove of Customs' unwise and unsound initiative.

THE "COURIER" PROBLEM

In a Federal Register notice of July 22, 1986 (T.D. 86-143), Customs granted a special favor to the rapidly-growing industry transporting merchandise by international courier or "express air service". This sector has experienced explosive growth, and now utterly fails to resemble the traditional "courier" service of yesteryear which utilized a person travelling as an international passenger to hand-carry documents, data, and similar time-sensitive non-commercial items. Today, the "courier" and "air express" companies go so far as to own or charter their own jet aircraft and to offer all-inclusive, door-to-door service, including Customs clearance, for practically any merchandise.

The July 22, 1986 special procedures (see Attachment C) allowed these companies to clear goods under informal and consolidated entry procedures and, as a practical matter, on a high-volume 24-hour-per-day basis at major international hubs (e.g., Federal Express' nationwide clearance operation at Memphis International Airport). It must be stressed that these significant operational and economic advantages in clearance are unavailable to importers and their Customs brokers who enter goods under established methods. Moreover, although Customs insisted in its "final rule" notice that the new procedures "assure the protection of the revenue in accord with all applicable law and regulations", we have serious reservations on this score, and are aware of numerous instances where goods have

been cleared utilizing these new procedures in a manner which was in violation of existing law and regulations - quite understandable incidents considering the tremendous volume of clearances effected by the courier/air express group at all hours of the day or night. Should the Committee wish, we would be glad to supplement our submission in detail on this score.

Another issue raised by the special courier/air express procedures, involving the technicalities of import clearance by a licensed broker, threatens serious interference with established broker-client relationships. Responding to the concerns of the brokerage community, in an effort to prevent the unauthorized transaction of Customs brokerage contrary to 19 U.S.C. 1641, Congress enacted Public Law 97-446. Section 201 of this law amended 19 U.S.C. 1484 to provide that the "importer of record" for purposes of Customs entry documentation was limited to (a) the owner of the goods, (b) the purchaser, or (c) a licensed broker designated by either party. The purpose of the amendment was to prevent the unauthorized and unlicensed clearance of goods by "nominal" consignees and to ensure that only the proper party or his licensed broker/agent attended to the formalities of Customs clearance. The law was specifically directed at cargo clearances by courier companies. Unfortunately, Customs has been extremely dilatory in implementing the law by appropriate regulation changes. On December 24, 1985, almost <u>two full years</u> after the enactment of Public Law 97-446, Customs proposed to amend the Customs regulations to distinguish between the

consignee named on the "master" airway bill (that is, the single consignee of air cargo shipped on a consolidated basis) from the consignees named on the "house" airway bill (that is, the individual consignees to whom each parcel or piece was addressed). The proposed regulations amendment dealt with the proper party to "designate" a Customs broker to attend to the Customs entry. This is a matter of vital concern to our member brokers, in that it permits the shipper or recipient of the goods to continue to select a broker familiar to them (one who knows their "line" of merchandise and any special problems or requirements attendant upon its clearance) to get the merchandise properly through Customs. In our response to the December 24, 1985 notice, we stressed the direct, inescapable connection between the then-proposed "courier/air express company" procedures and the question of broker designation. We submitted a suggested revision of the regulations section specifically involved governing "consolidated" shipments, and also urged that all entry regulations be reviewed and revised as necessary, to implement the intent of Public Law 97-446. We also stressed the necessity of harmonizing both matters.

Unfortunately, Customs chose to move forward with the courier/air express special procedures, while delaying action on our other concerns. The net effect is that one industry sector has been granted special preferential treatment, resulting in clear economic advantages, while the legitimate needs of another industry sector have been ignored.

In conclusion, we are happy to strike a more positive note to end our testimony, and to express our appreciation to Customs for its excellent cooperation with our Association in the recently-completed revision of a Customs form of all-encompassing importance authorizing Customs' release of the goods (Form 3461 and 3461-ALT). The exercise took place over a lengthy period; our officials and their counterparts in Customs worked well together to bring the matter to a good conclusion, equally benefitting Customs and the private sector. Our needs, and those of our importing clientele were well-recognized and properly attended to by Customs, and for this we wish to express our gratitude. On the whole, Customs people are among the best and most talented in the Federal service. We think that many of our problems in communication and cooperation with Customs are attributable to a mind-set on the part of the current administration which amounts to an over-concern with "law enforcement". Granting this legitimate concern, this attitude unfortunately overshadows and detracts from our own equally legitimate commercial concerns as well.

The CHAIRMAN. What difference do you see in the way fees are charged, say on the Canadian border by the Canadians, or on the Mexican border by the Mexicans, as compared to what we are doing? Is there any marked difference?

Mr. KENT. The fee, do you mean, in terms of import?

The CHAIRMAN. User fees on the other side. How do ours compare, if you are exporting to Mexico or you are exporting to Canada? What kinds of user fees do you run into with customs there?

Mr. KENT. Canada, as I understand it, is one of the members of the GATT who are bringing a case within the GATT forum against our user fee statute. So, my conclusion from that is that they don't have a user fee in Canada. I am not aware of a user fee in Mexico.

The CHAIRMAN. You don't have detailed knowledge on that?

Mr. KENT. No, sir.

The CHAIRMAN. Mr. Lamar.

Mr. LAMAR. I don't have any detailed knowledge, Mr. Chairman, but I believe that France is the only country which has any user fee similar to ours.

The CHAIRMAN. Which one?

Mr. LAMAR. France. It is the only major country that has a user fee similar to ours.

The CHAIRMAN. If you had sources where you could provide me that information, I would like to have it for the record.

Mr. LAMAR. We would be glad to furnish that.

The CHAIRMAN. All right.

Educate me on another issue. When I was holding hearings in south Texas in Brownsville, I had a Customs broker in Brownsville testify that in 90 days time he had to drive to Laredo four times, which is 200 miles each way, to meet with an import specialist. Now, Customs claims that should not have been necessary; he shouldn't have to meet with him that often. That could be taken care of by a phone call. Explain to me why you have to have the meeting and exchange that way rather than handling it over the phone.

Mr. KENT. I think you will be getting testimony later perhaps on that point, too; but there is a general unavailability of import specialists by telephone. You call and you get a recording. So often, when you can't reach somebody by phone, you go down and try to find them yourself. So, that is one element of it.

Senator BENTSEN. One of the examples he used was determining whether something was trimmed or cut; and frankly, I didn't know what the difference was. Do you know what he is talking about?

Mr. KENT. No, sir.

The CHAIRMAN. And he said that had to be visually demonstrated to the import specialist.

Mr. LAMAR. Mr. Chairman, many of the problems we are talking about are almost bizentine, and very often it is in the interest of the importer to have the opportunity to visit the import specialist in order to establish the type of classification they will be applying. If the import specialist isn't available at the port, it will probably be necessary to visit him elsewhere.

The CHAIRMAN. Senator Riegle, do you have any questions for the witnesses?

Senator RIEGLE. Mr. Chairman, I think these are very important issues. I think we should establish, if we can, that the many tasks which are required of the Customs Service can be accomplished with the limited resources being requested by the administration. I am particularly concerned, since Michigan is a border State, that our people in Michigan have the personnel necessary to assist in the large number of entries between the United States and Canada. Although the northern border has been referred to as a "friendly" border, and I agree it is, the bilateral trade between our two countries is enormous, and we need to make sure that the flow of commerce is not impeded by inadequate staffing of ports of entry.

Our trade deficit is now $170 billion, and far too high, and it seems to me that one of the ways we can get it down is by making sure that those who are charged with the responsibility of enforcing our trade laws—inspecting foreign goods coming into the United States, assessing duties, making sure that various trade agreements are being adhered to—is to make sure that the Customs Service is given the people necessary to do the job they have been assigned. I appreciate the efforts of the committee to focus on these questions.

The CHAIRMAN. You outlined a rather impressive and worrisome list of faults and problems. Do you see anything that can be done in a legislative way, other than talking about the level of staffing?

Mr. LAMAR. I am really at a loss to suggest anything, Mr. Chairman. Congress has been pushing the string in terms of appropriating additional money this year for staff. We never seem to end up with additional import specialist positions. Other than this committee, and the Appropriations Committee as well, providing actual staff levels, I believe it may be necessary to go down to the location and mandating import specialists as needed.

The CHAIRMAN. Mr. Lamar, I think that is going pretty far. Even if Congress says in the Table of Organization that you had so many in this classification and so many in that classification, at some point, you ought to let somebody manage over there, even though obviously we are having some serious problems with that matter.

Mr. LAMAR. I am not suggesting that solution. The history in the past few years indicates that they are refusing to impose the rules and hire the specialists.

The CHAIRMAN. And now, they are planning to hire and planning to get up to the level that we mandated and appropriated for, and at the same time, turning around and cutting back again. It is an incredible yo-yo effect in place there.

Mr. KENT. Mr. Chairman, just to follow up on his answer, from my vantage point, I think it is really necessary for you to go back and tackle the dedicated user fee fund. I think the real villain in all of this is OMB, which would like to put a scalp on its belt in terms of achieving certain revenue gains. I think the theory that you had in the committee was to link those funds, making them available to Customs and then having them applied as needed.

I think there is an interest within Customs to use those funds if they are available; but the intervention of OMB in that process, I think, has really destroyed that link.

The CHAIRMAN. Senator Danforth?

Senator DANFORTH. Mr. Chairman, thank you very much.

Gentlemen, there has been an ongoing controversy between this committee and the Administration as to how many people the Customs Service should employ. Yesterday, the Customs Service testified that it could justify a reduction in the number of its personnel because it is becoming more efficient. It has developed new technologies, new methods for doing this job. Whose side are you on?

Mr. LAMAR. Senator Danforth, the Joint Industry Group feels that there is a lack of adequate resources for the facilitation of commerce to strictly enforce its regulations. We feel that more people on the line would facilitate commerce more effectively, and more resources ought to be made available.

Mr. KENT. We completely subscribe to what Mr. Lamar has said.

Senator DANFORTH. Is the Administration's testimony completely out of line in your view?

Mr. KENT. I think it is a shell game, sir. It is a matter of moving and manipulating resources around.

Senator DANFORTH. Do you think that it serves budget purposes or is it just an area where people are moved around?

Mr. KENT. Well, I think it is smoke and mirrors. Overall, it doesn't achieve any real budget gains. And yes, it is just moving people around.

The CHAIRMAN. Any other questions, Senator?

Senator DANFORTH. No, Mr. Chairman.

The CHAIRMAN. Thank you, gentlemen, for your testimony, and we will take your extended statements for the record. Our next panel consists of Mr. James Chenoweth, Chairman of the Customs Liaison Task Force; Mr. James Landry, Senior Vice President and General Counsel for the Air Transport Association of America; Mr. David Rose, Customs Manager, Intel Corporation, on behalf of the American Electronics Association; and Mr. James R. Williams, President of the National Retail Merchants Association. Mr. Landry, if you would go right ahead, sir?

STATEMENT OF JAMES E. LANDRY, SENIOR VICE PRESIDENT AND GENERAL COUNSEL, AIR TRANSPORT ASSOCIATION OF AMERICA, WASHINGTON, DC

Mr. LANDRY. Thank you, Mr. Chairman. In these few moments, I would like to focus my oral remarks on but one current and grave concern—the Customs budget proposal for fiscal year 1988. That proposal contemplates a cutback of 2,000 in Customs personnel. A requested appropriation of $803 million, of which $500 million to underwrite commercial operations would be reimbursed by the special fund in Treasury created by ad valorem and other user fees collected from the importing community and international air travelers.

Mr. Chairman, those fees were imposed as the quid pro quo for an assurance that scheduled airline passengers and importers were going to receive fully adequate Customs Service whenever they were needed.

Is the Government's commitment to adequate customs service now and in the future being fulfilled? In a word, no.

The number of airport inspectors today, roughly 700, is inadequate; and even if one assumes that the devastating cut of 2,000 personnel does not take place, no increase is contemplated. No growth. 700 today; 700 next year.

Our passengers began paying the so-called user fee of $5 last July, and importers began paying the 0.22 percent ad valorem fee on merchandise last December in the good-faith belief that Customs staffing and resources would be dedicated at levels adequate to meet the current and future demands of our international passenger and cargo traffic.

If that faith is misplaced, then in fairness, the user fees should be eliminated, or at a minimum substantially reduced. We urge this committee to take all necessary steps to assure that the original commitment is honored. Any cutback in service is patently unfair to the millions of users—passengers and importers alike—who have paid and will pay those fees. And to avoid this looming breach of faith, maintenance of the status quo will not suffice.

At least a 10 percent increase is needed to process today's passengers and cargo expeditiously, and another seven percent is needed to handle next year's growth. That 17 percent increase would mean an increase of 120 inspectors for the next fiscal year. Then, and only then, can we be assured that lengthy inspection delays will end at our airports of entry, that the 45-minute maximum for passenger clearance—the target established by Congress—is consistently met, and that legitimate overtime service requests are consistently granted.

Then, and only then, can we be assured the commitment to the users is being fulfilled. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Chenoweth, would you proceed?

[The prepared written statement of Mr. Landry follows:]

Statement of James E. Landry
Senior Vice President and General Counsel
Air Transport Association of America
Before the Committee on Finance
U.S. Senate
On the Management of the U.S. Customs Service
February 26, 1987

My name is James E. Landry. I am Senior Vice President and General Counsel for the Air Transport Association of America, which represents most of the scheduled airlines of the United States. Seventeen of our member airlines provide regularly scheduled air service between the United States and more than 70 countries.

We appreciate the opportunity to come before this Committee to discuss management of the U.S. Customs Service and needed reform legislation, particularly in view of the Administration's proposed severe cuts in the FY 1988 budget for the Customs Service. Our statement will focus on three relevant areas.

I. Customs Inspector Staffing at Airports

The U.S. Customs Service budget proposal for FY 1988 asks for a cutback in Customs Service personnel levels to an estimated 13,169 full-time permanent positions, down from the 15,177 positions estimated for this year. The Administration has requested an appropriation for FY 1988 of $803,090,000 for salaries and expenses. Of that amount, approximately $500 million, which would underwrite commercial operations, would be reimbursed by a special fund in the Treasury created by *ad valorem* and other user fees collected from the importing community and international air travelers.

Section 13031(e)(1) of the law which first established this Customs User Fee Account as a separate account within the general fund of the U.S. Treasury, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), states flatly that "the customs services required to be provided to passengers upon arrival in the United States on scheduled airline flights at customs serviced airports shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (a)) to airlines and airline passengers." (Emphasis added.) That provision constitutes a ringing statutory declaration of Congressional intent -- that, in return for the unprecedented (prior to 1986) payment of $5 "user fees" upon arrival in this country, the scheduled airline passengers were going to receive fully adequate customs services whenever they were needed.

But, let us examine the subsequent implementation of that quid pro quo. Is the government's commitment being fulfilled in practice? In a word, no.

The number of Customs inspectors at airports of entry and preclearance airports served by the airlines -- roughly 700 today -- is inadequate. We are advised that, even if one assumes that a devestating rescission does not take place, the budget now before you would contemplate no growth in that number -- 700 today, still 700 next year. And that is without the rescission -- without the slashing of 2,000 permanent positions reflected in the FY '88 budget.

One would assume, in view of the clear and unequivocal commitment in COBRA, that none of those cuts would touch airport inspection staffs. But, the OMB's rescission notice to Congress, dated January 5, 1987, talks of the benefits realized from the acquisition of technological equipment and automated devices over the past several years, allowing more selective procedures in both enforcement and inspections activities, and thus justifying OMB's determination that lower priority activities within Customs inspection and enforcement programs should not be fully funded. And, most ominously, we have been unable to get any assurance from the Customs Service that airport inspectors would not be among those cut if the rescission is allowed to take place.

Mr. Chairman, airline passengers began paying $5 fees for Customs services last July, and importers began paying the .22 percent ad valorem fee on merchandise last December, in the good faith belief that Customs staffing and resources would be dedicated at levels adequate to meet the current and future demands of our international passenger and cargo traffic. If that faith is misplaced, then, in fairness, the "user fees" should be eliminated or, at a minimum, substantially reduced. In that regard, the Customs Service itself has consistently testified to the effect that its costs for clearing all international passengers entering this country would be fully covered by a $2 charge on all such passengers.

To reiterate, we urge this Committee to insist that the original commitment be honored and that no diversion of these

fees to other Customs activities or other governmental objectives be condoned. As Congress provided in the consolidated budget reconciliation bill (P.L. 99-509) last year, which amended COBRA and introduced the ad valorem fees, "...all funds in the Customs User Fee Account shall only be available, to the extent provided for in appropriations Acts, for the salaries and expenses of the United States Customs Service incurred in conducting commercial operations." (Sec. 13031(f)(3) of COBRA, as amended.)

The Conference Report on the COBRA amendments accurately termed the Customs User Fee Account a "dedicated account in the General Fund of the Treasury". The FY '88 budget itself pays what we trust is more than lip service to that dedication. It states that "[i]n enforcing the provisions of the Tariff Act of 1930, as amended, the inspection and control activity must: (1) accommodate the growth of persons and cargo entering this country; (2) open new ports of entry and expand service at existing ports to meet the needs of the traveling and importing public . . . ."(Emphasis added.)

The two actions, massive personnel cuts and increased services, are mutually exclusive and unrealistic on their face. Most importantly, any cut-back in service is patently unfair to the millions of users--passengers and importers alike--who have been subjected to so-called Customs user fees in recent months with the proclaimed intention of assuring fully adequate Customs services when and where they are needed.

Moreover, that statutory commitment cannot condone maintenance of the status quo, which is contemplated if the rescission is struck down. At least a ten percent increase in inspectors is needed to process today's passenger and cargo traffic at U.S. and preclearance airports, to reduce continuing lengthy delays in the entry of air cargo and the inspection of air travelers. Moreover, a seven percent increase in the number of international air travelers requiring Customs inspection is projected for FY 1988. Looking at what we know to be an inspections staff already working beyond its capacity; that seven percent additional work load translates into another seven percent additional staff. Therefore, a 17 percent total increase in Customs inspection staffing--another 120 inspectors--will be the minimum requirement at airports during the next fiscal year.

Lest this Committee think that is overreaching, it should be noted that a companion U.S. inspection agency, the Immigration and Naturalization Service, is now beginning to plan for and dedicate its new-found revenues under similar user fee legislation anacted by the Congress last year. Here, an identical $5 "user fee" is resulting in the end of inadequate staffing. Indeed, the INS plans to increase its airport inspector staff by 50%, and there will be no fat in such an increase! INS plans to distribute the new staff among the airports of entry in roughly direct proportion to the traffic flows at the airports, subject, of course, to any exceptional

needs at a particular location. We would suggest the same approach for the Customs Service, in order to assure compliance with the 45-minute clearance target established by the Congress when COBRA was enacted.

In any event, it would appear that the improved statutory language dedicating the INS user fee moneys is working better than the earlier Customs version -- perhaps in fairness to those who have to pay both of these fees, the dedication of the Customs fee should be made equally certain.

Before leaving the subject of these two user fee accounts, I would be remiss if I did not alert this Committee to some facts learned from the first several months of experience. It is clear that projections of $150 to 170 million in annual revenues from each of these $5 fees is grossly overstated -- because the traffic base is grossly overstated. Our best information indicates that the number of passengers paying these fees, if one uses the traffic during the twelve months ended October 30, 1986, and does not adjust for growth, is roughly 16.4 million per year. That would equate to about $82 million per year flowing into each of the user fee accounts. I should add that such projection errors are due in large part to the simple, incomprehensible fact that there is nowhere in our government one agreed set of figures for the number of international air travelers to and from this country.

Lastly, before turning to cargo matters, we ask that, in light of the storm clouds so clearly placed on the horizon by the FY 1988 Customs budget, a prohibition which Congress

prudently included in the FY 1987 Treasury Department Appropriations Act be made permanent by law. Specifically, Congress thereby precluded, through September 30 of this year, any implementation of single eight hour shifts at airports and mandated that all current Customs services be continued. Let it never be said to the world that this country is only open from nine to five!

II. Customs Cargo Computerization

Computer processing of air cargo inventory and associated data necessary for Customs entry is being developed by airport authorities at New York and Miami, where automated systems for import and export processing will provide an essential service to the international trade community served by these airports. Independent approaches to cargo automation are also underway at airports serving Baltimore, New Orleans, Dallas and Los Angeles.

The airlines are concerned that the multiple approaches to automation at various gateways will lead to conflicts, duplication of efforts, and added costs. Variations among airport systems will generate problems for the users and the Customs Service. Unlike most other countries, the United States has many gateway airports processing exports and imports and between which, airlines transport in-bond merchandise. Thus, the computer system at each U.S. gateway must be compatible with all others as well as with any national air

cargo Customs clearance system which may be developed by the U.S. Customs Service.

There is a need, accordingly, for a common discipline among these systems. The airlines therefore ask that Customs be directed to formulate guidelines which address standards for key trade functions and communications interconnections.

These guidelines are needed to assure a uniform national Customs automated air cargo system, a system which deals adequately with the interaction of local port authorities, forwarders, brokers, shippers and airlines in the processing of exports as well as imports.

The Automated Commercial System is far behind in its implementation schedule. We are concerned because this slippage represents not only a lack of automation resources in Customs, but reflects some basic questions on the soundness of ACS design and functionality. After two years of implementation, the Automated Broker Interface subsystem is not covering one half of the Customs entries. The air manifest system was not implemented as scheduled in 1986. Other subsystems for the management of in-bond cargo, processing informal entries, and merchandise quotas are not fully designed and may lead to a very costly piecemeal implementation characterized by extensive revision, redesign, and reprogramming after testing and initial implementation. Air carriers are being asked to capture data that could more economically be captured at other points in the trade documentation process.

We urge that the Committee request the Commissioner of Customs to engage an independent evaluation team to assess the reasons for delays in ACS and validate the soundness of the overall systems design as well as interrelationships between subsystems. Such an evaluation should also recommend any changes in legislative authority necessary to operate Customs cargo functions in an electronic data interchange environment. The high volume of shipments via air express and air freight services demand a dynamic customs clearance system which is not within our reach in 1987 although other countries have already succeeded in operating such computer control systems.

The vessel manifest statute of 1799 appears to be governing customs information requirements in the 1980's. When first drafted, the customs law spelled out the details of "manifesting kegs and hogsheads." Today, electronic computers and advanced telecommunications computers should be permitted to streamline the import/export documentation system without outdated restrictions. We request that your Committee look into the design concepts, implementation planning and staffing for the various subsystems of the ACS and identify any revision to legislation which may be needed to facilitate the adoption of new automated systems in this vital area of trade facilitation.

III. U.S.-Canada Customs Travelers Clearance Process

In order to provide inspection efficiencies and, over a period of time, substantially reduce the number of Customs

inspectors along the U.S.-Canadian border, the airlines recommend implementation of a joint Customs travelers clearance process. In view of the similarity of United States and Canadian Customs missions, problems, needs and requirements, such a joint travelers clearance process appears ripe for consideration by this committee.

Under such a plan, travelers to and from Canada and the United States could freely travel across the common border, under most circumstances, without Customs formalities. The plan would allow goods accompanying travelers crossing the U.S.-Canada border to be, within reason, duty exempt.

Implementation of a U.S.-Canada Customs travelers clearance process for trans-border travel would greatly reduce the need for Customs inspectors for the processing of travelers along the common border and at airports for trans-border air travel. The Customs Service is supportive of a joint U.S.-Canada travelers clearance process, as is reflected in the attached March 26, 1986 letter from the Commissioner of Customs.

Conclusion

In summary, we are alarmed by the drastic cuts in the Customs budget and, most particulary, personnel in the face of continuing increases in international air passengers and air freight. Importers are paying .22 percent ad valorem user fees and have every right to expect expeditious processing of cargo imports. Overseas air travelers who are charged $5 are

entitled to receive the full benefits of expedited border crossing formalities in return for the user fees being paid in good faith to Customs. Unfortunately, this will not be the case if action is not taken to increase, rather than freeze or --even worse -- cut the airport inspection staff.

In the past year, Customs actually refused to schedule the clearance of air travelers on some flights at some airports because of overtime costs. Experience to date under the Customs user fee program gives no indication that the funds will be made available to provide requisite processing capabilities in a timely and efficient manner. We ask this Committee to take all necessary steps to assure that the looming breach of faith does not become a reality.

In addition, Customs must streamline its inspection operations and otherwise improve the efficiency of its management systems. The establishment of Customs cargo computerization guidelines and implementation of a U.S.-Canada travelers clearance process will accomplish this by facilitating passenger and cargo inspection processing and will also reduce costs to the Government.

The airlines will support the development of Customs management reform legislation which may be undertaken by this Committee. In this regard, at the U.S.-Canada joint government/airline facilitation conference sponsored by the Air Transport Association in Hawaii last December, the following conclusion was adopted:

The Conference concluded that an exploratory study should be conducted on the best ways to match the operations and funding of U.S. Customs Service commercial activities, both for cargo and travelers, with the demands of the marketplace, taking into consideration how a reconfiguration of Customs' assets might otherwise aid in the deficit reduction effort.

Thank you, Mr. Chairman, for giving us this timely opportunity to present our views on matters of enormous importance to the public and private sectors alike, as we jointly seek continued healthy growth in our nation's commerce.

THE COMMISSIONER OF CUSTOMS

WASHINGTON, D.C.

March 26, 1986 INO-1-01-IN:IP:G:AM

Dear Mr. Landry:

I am pleased to receive your proposal relative to a joint U.S.-Canada travelers clearance process. It represents a major step toward reducing trade barriers between Canada and the United States, an important goal of the U.S. Customs Service and a concept which closely parallels our desire to reduce Canadian border processing activities.

As you are aware, trade between Canada and the United States constitutes the largest trading relationship in the world. During the March 1985 meeting between President Reagan and Prime Minister Mulroney, a commitment was made to improve the level of trade through increased cooperative efforts to expedite the flow of goods across the border. Following the spirit of this commitment, U.S. and Canada Customs agreed to construct and operate common border facilities at Danville, Washington/Carson, British Columbia, and Noyan, Quebec/Alburg, Vermont. We anticipate the facilities will be in operation by fall 1987, at which time we will evaluate the results of this pilot effort. I believe that the establishment of common border facilities is a first step in simplifying border processing for both nations.

Additionally, we are exploring other ways in which border commerce and transportation can be expedited. However, as you so correctly pointed out, the reduction or elimination of border processing activities would greatly impact both Canadian and U.S. Federal agencies. While I realize there are many legal and technical issues which would require resolution, I will continue to pursue major revisions to border processing procedures in order to expedite the flow of passengers and trade between Canada and the United States.

I [redacted] be pleased to keep you advised of U.S. and Canadian Customs mutual efforts relative to border facilitation.

Yours faithfully,

Wilson

James E. Landry, Esq.
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STATEMENT OF JAMES CHENOWETH, CHAIRMAN, CUSTOMS LIAISON TASK FORCE, AMERICAN IRON AND STEEL INSTITUTE; AND MANAGER OF MARKET RESEARCH AND PRODUCT DEVELOPMENT, LONE STAR STEEL CO., DALLAS, TX

Mr. CHENOWETH. Mr. Chairman, my name is Jim Chenoweth. I am Director of Corporate Affairs, Lone Star Steel Company. I am here today as Chairman of the American Iron and Steel Institute's Customs Liaison Task Force.

Because of the additional burdens placed on Customs as the result of the President's steel program, Treasury officials invited members of my task force to visit major steel ports to review staffing levels and procedures. Consequently, we have visited 10 major steel ports and the Customs computer center in Virginia. We have discussed our findings with senior Treasury and Customs officials.

At every port we visited, we were impressed by the dedication and professionalism of the Customs Service employees.

The centerpiece of the Customs Service's efforts to become more efficient, and to do more with less, has been the automated commercial system, that is, ACS. We agree with the Customs' computerization efforts. We disagree with the idea that a bigger and better computer can replace enforcement people. At nearly every port we visited, inspections were at levels so low that unscrupulous importers have virtually no risk of being caught.

We must increase the number of inspections by adding inspectors and mandating that Customs increase substantially the number of inspections of high-risk cargo such as steel.

The Customs Service has substantially reduced the number of import specialists in recent years and should reverse this trend and take three specific steps regarding import specialists.

One, increase substantially the number of import specialists, at least to the 1981 level at major steel ports. Two, eliminate bypass altogether, except for the lowest of low-risk products. Three, integrate the import specialist into the ACS as soon as it is possible.

With regard to the laboratories, we believe the Customs management should get high marks for procuring mobile equipment which detects misclassified steel products and turns a profit for the Service. However, the Service has been dismantling several of the fixed labs by layoff and attrition.

We recommend that the Customs ensure a strong combination of mobile and fixed laboratories.

The most important development in Customs involves the ACS. Our principal concern with ACS is the automated broker interface system (ABI). With regard to the ABI we recommend that Customs transmit no data to the Census Bureau before a review for accuracy by an import specialist.

Customs Service management is enforcement oriented, anxious to do the job effectively. We believe that Customs should not be saddled with the view that all Government employees are the same and the fewer the better.

In sum, the restaffing of key enforcement positions to levels that reflect the demands placed on them by the importing community and domestic industry is urgent. To do this, Congress should reject the OMB budget and give Customs access to the commercial user

fee account and require that Customs increase its staff to the 15,000 level for fiscal years 1987 and 1988. Congress should also monitor Customs commercial operations closely and increase enforcement employment further if needed to ensure efficient and effective commercial operations. Thank you.

The CHAIRMAN. Thank you very much.

[The prepared written testimony of Mr. Chenoweth follows:]

TESTIMONY OF AMERICAN IRON AND STEEL INSTITUTE ON

MANAGEMENT OF THE CUSTOMS SERVICE

BEFORE THE

COMMITTEE ON FINANCE OF THE UNITED STATES SENATE

My name is James Chenoweth. I am Director of Corporate Affairs and Product Development, Lone Star Steel Company, and am here today as Chairman of the American Iron and Steel Institute's Customs Liaison Task Force. The American Iron and Steel Institute is a trade association whose 44 domestic member companies represent approximately 80% of the steel production capability in the United States. I would like to present the following comments on the current condition of our Customs Service and what needs to be changed to improve its ability to carry out its critical functions. Please bear with me, as much of what I have to tell you today is detailed and technical.

A properly funded and staffed Customs Service is important to the domestic steel industry because it is the government agency that classifies imports, collects duties on them, enforces the trade laws -- including the Voluntary Restraint Arrangements of the President's Steel Program -- and collects and reports data on imports to the Census Bureau. These functions are obviously very important to the domestic steel industry, not only because of the current need for effective enforcement of the President's Steel Program -- preventing fraud, etc. -- but also because the steel industry relies on the Customs Service to charge the proper duties on imported steel products and report import data to the Census Bureau correctly.

The importance of the duty collection function is obvious, since import duties -- even low ones -- have an impact on our markets. The import data function is just as important. Imports of steel products take a large share of some steel product markets -- in Lone Star Steel's oil country tubular goods, for example, import penetration in 1986 was 59%. Therefore, for domestic steel companies to be able to predict market activity for production, employment and investment purposes, it is critical that the Customs classify imports correctly. Thousands of jobs and millions of dollars are at stake.

The American Iron and Steel Institute has been active over the years in attempting to ensure that Customs is in a position to carry out its duties. When requested by Customs management, we have run technical training seminars on steel product identification for import specialists, laboratory personnel, and inspectors. In addition, we have been active in the Senate and in the House when Customs budget issues were under consideration. In that regard, we have been particularly concerned in recent years that Customs budget requests have not been large enough to ensure that the Service would be able to carry out its functions effectively. As a result of our representations to the Administration, and in light of the additional burdens placed on Customs enforcement personnel as a result of the President's Steel Program, senior Treasury officials in May 1985 invited members of my task force to visit major steel ports to review staffing levels and procedures. As a result of this invitation, we have visited 10 major steel ports and the Customs computer center in Virginia and have discussed our findings at two meetings with senior Treasury and Customs officials. We believe that some of our

findings may be of interest to the Committee. Our comments today will focus on the Customs issues of most importance to the steel industry -- import specialists, inspectors, laboratory personnel staffing levels, and the development of the Customs Service's computer capability.

First of all, at every port we have been impressed by the dedication and professionalism of the Customs Service employees whom we met. They have been laboring under very difficult conditions in recent years due to the severity of personnel reductions and huge increases in work loads. These import specialists, inspectors, and laboratory personnel are the people who have had to do the "more with less" that members of Congress have been hearing about in Customs Service budget requests for the past five or six years. Despite the superior efforts of officials at the port, "more with less" has not in our view, worked.

The centerpiece of the Customs Service's efforts to become more efficient and do more with less - has been the much touted Automated Commercial System (ACS). We in the steel industry -- involved as we are in our own modernization programs -- strongly support the Services' computerization efforts. Where we part company with Customs management is in the belief that a bigger and better computer can replace enforcement people. A computer cannot classify or inspect steel, or take samples. A computer, however, can increase the efficiency of those who do. And with the huge increases in imports that we have seen in recent years it seems to us that we need more people and more computerization. At nearly every port we visited, inspections were at levels so low that unscrupulous importers have virtually

no risk of being caught. For example, in Los Angeles much less than 5% -- and maybe less than 1 or 2% -- of the steel is inspected. The situation is not much better in other major steel ports such as Houston or Charleston, SC. In some ports there are only enough inspectors to inspect one commodity line at a time -- generally high visibility products such as steel or textiles. Other products are simply shuttled on through.

In making these comments on inspections, we do not mean to suggest that Customs should not be selective in what it inspects. We agree with the general approach that Customs should concentrate on high risk cargo and use its improved ability to be selective about what to inspect. Our concern is that there are simply not enough inspections. This situation is even more serious as regards products that are imported in containers, where inspections at the ports we visited are only a small fraction of one percent. Illegal imports of all kinds -- including drugs -- have almost free access to our country if they are shipped in the back of a container. Fortunately, not much steel is shipped in such containers. We believe that the only way to solve the problem of too few inspections is to add inspectors at major ports and mandate that Customs -- using selectivity criteria that it now has in its ACS -- increase substantially the number of inspections of high risk cargo, such as steel and textiles.

What about import specialists, the people who classify imports, assess duties, and catch fraudulent importations? The Customs Service has substantially reduced their number, too, in recent years. And we believe

that these reductions are even less justifiable than those in the inspectors' ranks because computerization -- though used to justify the reductions -- has not reached them. Import specialists must still "push paper". To reduce their numbers during a period when imports have substantially increased is totally unjustifiable. In the case of steel, demands on them related to enforcement of the President's Steel Program have increased their duties dramatically and at the same time reduced their ability to do their jobs at the level of efficiency that we, and I am sure they, would like.

Of course, because of the steel program and the demands on the Customs Service to enforce it, we -- along with the textile industry -- have to some extent gotten priority treatment. Other industries' products, including steel-intensive products, are "bypassed" -- a Customs term that means in effect that the products are allowed to enter without review by an import specialist as to the proper duty to be paid, or classification declared. One steel importer -- to give you a real life example -- trying to take advantage of this system, attempted to enter a quota product in a category that he knew would be bypassed. He was successful: but this circumvention of the President's Program was stopped when a steel industry sales representative found out about the scam and reported it to Customs.

We believe the Customs Service could improve enforcement of the trade laws and at the same time improve the efficiency with which it processes and expedites cargo if it took three specific steps related to import specialists.

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(i) Increase substantially the number of import specialists now processing entries at the major ports of entry. In the case of steel, we believe that the number of import specialists should be returned at least to the levels which obtained in the 1981 period at major steel ports.

(ii) Eliminate bypass altogether except for the lowest of low risk products. Bypass, which does not involve steel but does include steel-intensive products, covers over 50% of all entries at some ports. This rate should be lowered substantially.

(iii) Fully integrate the import specialists into the ACS as soon as possible. The current ACS development plan as we understand it does not include the full integration of the import specialists into the system until almost the end of the development process. We believe there should be an ACS terminal at each import specialist's desk.

With regard to Customs Service laboratories, we believe that Customs management should get high marks for their willingness to procure the equipment that is needed and used in inspecting steel imports. These machines, such as mobile metal analyzers, have been shown to be effective in detecting misclassified steel products - and they turn a profit for the Customs Service. On the other hand, with regard to the Customs Service's six fixed laboratories, the Service over the last few years has apparently been

involved in dismantling several of them by layoffs and attrition. We are deeply concerned about this process and its effect on the Service's ability to sample and test imported products, and especially on its ability to man and use the mobile metal analyzers.

We recommend, with regard to the future of the Customs laboratory system, that Customs ensure that -- certainly for steel -- a strong combination of mobile and fixed laboratories should be maintained.

The most important development project underway in the Customs Service involves the ACS. Our principal recommendation here, in addition to the one above involving the import specialists, affects the part of the system known as the automated broker interface (ABI) system. This system allows customs brokers to transmit data on importations directly to the Customs Service and the Census Bureau. Our problem with ABI entries is that the data sent to the Census Bureau -- unlike all other steel entries -- are not verified for accuracy by the import specialists. This is due to the fact that the import specialists are not integrated into the ACS and will not be for some time, and because Customs does not require the customs brokers to obtain from the import specialists approval of an entry prior to transmitting it to Census. Of particular concern is the fact that even when the import specialists are brought into the ACS, there is no plan to require the ABI brokers to submit their entry data to the import specialists electronically. Given the importance of correct import data to the steel industry, we are deeply concerned about this loophole. Our recommendation on this subject is

simple: transmit no import data to the Census Bureau before a review for accuracy by an import specialist.

So far our statement has centered on the problems we in the steel industry have seen in our study visits around the country and not directly on Customs management as such. I'd like to state here our belief that in recent years, during what has been for Customs a period of some crisis, Customs Service management has done an excellent job. It is our experience with senior management at Customs and Treasury that they respond to problems effectively - if they have the resources. In several situations involving inefficiencies we observed at several ports, when Customs was informed of the problem, management moved immediately to make corrections. We have found most of the managers with whom we have dealt to be enforcement-oriented and anxious to do their jobs effectively. We believe that the source of the problems now facing the Customs Service stem from a myopic and simplistic view that all government employees are the same, and the fewer the better. In the case of the Customs Service, this attitude has proven to be disastrous. Customs is a highly profitable organization returning approximately $20 to the Treasury for every dollar spent. Moreover, a properly funded and staffed Customs Service adds to the efficiency of the economy generally by the expeditious processing of cargo through the port system.

In sum, we believe that the principal thing the Customs Service needs today is a new attitude of "more done with more". Restaffing of key enforcement positions to levels that reflect the demands placed on them by both the importing community and domestic industries -- such as steel -- is

urgent. To do this, the Congress should, we respectfully submit, first reject the budget for Customs that has been sent to Congress by OMB. We recommend that instead the Customs Service be allowed access to the monies now building up in the Commercial User Fee Account and that Congress require that Customs increase its staff to the 15,000 level for FY 1987/1988. We further recommend that Congress monitor Customs commercial operations closely over this period and increase enforcement employment as justified and needed to ensure efficient and effective commercial operations. We shall then have a thoroughly effective -- and cost-effective -- Customs Service this economy must have and maintain.

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The CHAIRMAN. Mr. Williams.

STATEMENT OF JAMES R. WILLIAMS, PRESIDENT, NATIONAL RETAIL MERCHANTS ASSOCIATION, NEW YORK, NY

Mr. WILLIAMS. Senator, my name is James R. Williams, and I am the President of the National Retail Merchants Association. We represent some 40,000 general merchandise stores doing around $150 billion in goods and services sales.

I am here to tell you that the commercial operations—the Customs commercial operations—has deteriorated in recent years to the point where importing has become a struggle and a risk. First, the relationship between the Customs Service and importers has seriously eroded. Although Customs views its primary mission as one of enforcement, interdicting illegal drugs, and ferreting out customs law violations and fraud, this emphasis has blurred the distinction betwixt the majority of U.S. importers who are legitimate and law-abiding and the few who are unscrupulous.

Second, as we have heard, Customs does not have sufficient resources to efficiently process commercial entries. This exacerbates the already existing adversarial relationship between retailers and Customs officials. There are not enough inspectors, as we have heard. Customs is unable to provide importers with binding rulings or other advice prior to entry of merchandise. The administration of Customs regulations is inconsistent from port to port. The Service is inadequately automated, and Customs commodity specialists are frequently inexperienced. The Customs Service no longer provides adequate service to legitimate importers.

My written statement, which has been filed, contains many anecdotes collected from NRMA members that graphically illustrate the difficulties we face.

Third, the Customs Service routinely communicates new rules and procedures directly to field offices without also informing importers, who are required to comply with the rules. Retailers are justifiably frustrated when they find their shipments denied entry because Customs has changed the rules of the game. NRMA recommends that Congress take the following actions to improve Customs Service operations.

One, create a program of reward to those importers who establish their own programs to assure compliance with customs laws. Two, increase the number of inspectors and improve their training of reassigned personnel on a staggered basis. Three, fully automated textile and apparel quota monitoring and make certain it interfaces with other Customs Service computer programs. Four, increase the ability of the Customs Service to provide importers with finding rulings and informal advice and require field officers to abide by these rulings. Five, separate commercial processing and drug enforcement activities, and separate them in order to reaffirm the importance of Customs' commercial activities. And six, establish an importer's advisory committee to provide a sounding board for new Customs Service policies and to foster a better understanding between importers and Customs.

Clearly, some of these recommendations will cost money, and we certainly recognize budgetary restraints; but like it or not, retailers

and importers are now paying for Customs commercial operations through the 0.22 percent user fee. NMRA opposes this fee and its retention and expansion; but as long as we are paying for commercial processing of entries, we certainly ought to receive better service.

Thank you.

The CHAIRMAN. Mr. Rose, will you proceed, please?

[The prepared written statement of Mr. Williams follows:]

National Retail Merchants Association

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STATEMENT OF
JAMES R. WILLIAMS, PRESIDENT
NATIONAL RETAIL MERCHANTS ASSOCIATION
ON THE OPERATIONS OF THE U.S. CUSTOMS SERVICE

BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

FEBRUARY 26, 1987

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This statement represents the views of the National Retail Merchants Association ("NRMA") on the operations of the U.S. Customs Service.

The NRMA is a non-profit voluntary trade association whose approximately 3,700 corporate members operate than 40,000 department, chain, and specialty stores throughout the United States. NRMA's members import a wide variety of merchandise, and so have an immediate and strong interest in the fair and efficient processing of their entries by the U.S. Customs Service. NRMA members have experienced first-hand how Customs' commercial importation processing operations have deteriorated in recent years to the point where importing is a struggle and a risk for even large, reputable companies. This unacceptable situation led to the recent establishment of a Special Customs Task Force in NRMA's Foreign Trade Committee to attempt to help NRMA members deal with Customs problems. One of the first things that the Task Force did was to canvass our members for their observations on how Customs is handling commercial importations. The information and case histories presented in this statement have been collected from NRMA's member firms. They illustrate, quite graphically, many of the

difficulties which NRMA members are encountering with Customs.

More important, these illustrations point out three critical areas where Congress needs to improve Customs Service operations: (1) the adversarial relationship between Customs and importers and retailers; (2) day-to-day Customs operations; and (3) the procedures by which Customs makes rulings.

I. THE CUSTOMS FUNCTION: ENFORCEMENT VS. SERVICE

The Customs Service has twin obligations. On the one hand, Customs must enforce the Nation's trade laws. It must make sure that importers do not attempt to circumvent quotas, or defraud the government of tariff revenue, or otherwise violate U.S. laws or international trading obligations. Moreover, Customs is charged with the responsibility for cracking down on illegal drug traffic.

But at the same time, Customs also has the obligation to make sure that the legitimate flow of international commerce is not impeded. In this sense, the Customs Service should provide fast and efficient processing of commercial entries. These entries are important to U.S. businesses, not only to U.S. retailers who sell a variety of merchandise to U.S. consumers, but to manufacturers who rely on component parts for manufacturing operations.

Unfortunately, in recent years the Customs Service has measured its success as an agency of the U.S. Government, not by how efficiently it processes commercial entries, but by how many fraud cases it initiates and by the amount of drugs that it interdicts at the border. This overriding emphasis on police-type enforcement is obvious in Customs' recent annual reports, which are devoted almost exclusively to this aspect of its responsibilities. The result has been the erosion of the relationship between the importing public and the Customs Service. Today, retailers and importers have come to believe that the Customs Service is, somehow, "out to get them." While at the same time, many Customs Service employees have begun to lose the distinction between illegitimate importers and drug runners, on the one hand, and the overwhelming majority of importers who are legitimate and law abiding, on the other hand.

This adversarial relationship exacerbates the difficulties that are caused by tight budgets and lack of personnel. Unfortunately, there is every reason to believe that this state of affairs will continue unless checked by Congress.

This has been recently underscored by the Customs Service, in its December 10, 1986, proposal to amend its enforcement guidelines under Section 592 of the Tariff Act of

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1930 to remove the requirement that a "fraudulent" violation of Section 592 be deliberately done with intent to defraud the revenue or otherwise violate U.S. law. Customs has attempted to justify this expanded and unprecedented concept of fraud on the grounds that the current standard definition "imposes a burden of proof that is greater that is necessary for establishing civil fraud under Section 592," and would "impair the enforcement of Section 592 fraud cases."

This sweeping change would eliminate the carefully crafted distinctions set up by Congress in 1978 between fraud and the lesser offense of "gross negligence." If approved, this change in Customs practice would result in many more enforcement actions against individuals who possibly had made serious mistakes, but who had never intended to commit fraud. This blurring of the distinction between the criminal and the legitimate importer must be halted.

Nonetheless, there is reason to believe that the distinction between the majority of legitimate importers and the few who flaunt the rules will become even hazier. Even now, the House of Representatives is considering a proposal, contained in H.R. 3, the House Omnibus Trade Reform Package, that would suspend an importer's right to import merchandise for a three-year period if he or she were assessed penalties for three "gross negligence" or "fraud" within a seven-year

period. An importer need not commit fraud, only "gross negligence." And the Customs Service -- an agency with an adversarial relationship with importers, that views its primary mission as enforcement -- has the initial authority to label conduct as "fraud" or "gross negligence" and only very lengthy, expensive litigation can dislodge Customs' declaration. Further, the import ban would go into effect automatically, with no right even for an additional hearing. If this Customs Scofflaw Provision of H.R. 3 were to become law, every legitimate business that relies on imports would, in effect, be "betting the company" every time it entered merchandise into the United States.

NRMA urges Congress to reevaluate this emphasis on enforcement. Enforcement is important, but the efficient handling of international cargo benefits the United States economy.

What is particularly galling to the importing public is that we are now paying for these enforcement activities through the 0.22 percent Customs User Fee. While this fee was originally designed to decline and phase out by the end of Fiscal Year 1989, the President's budget proposal intends to make this fee a permanent fixture and to maintain it at 0.22 percent instead of dropping the rate to 0.17 percent as originally intended.

NRMA opposes any retention of the importer's user fee, in any form, that does not dedicate the funds to improving the processing and clearance of the very commercial importations which generate the fee. In short, if importers are to pay for the processing of their merchandise through Customs, then they deserve a fair exchange for their money. Right now, retailers are simply not getting a very good deal.

II. IMPROVING DAY-TO-DAY CUSTOMS OPERATIONS

In recent years, Congress has successfully resisted Administration attempts to cut the Customs budget, and has appropriated additional Customs funding and personnel positions. Also, Customs now enjoys the proceeds from a variety of user fees -- principally, the 0.22% fee imposed directly on the value of foreign imports -- to fund its commercial operations. Looking at these facts alone, one would think that Customs has ample resources and personnel to perform all of its assigned tasks. That is far from the truth, however, because most of the increased resources provided to Customs in the past several years have been employed in drug interdiction and fraud investigation activities. The normal processing of commercial entries -- the primary task of the Customs Service -- has lagged behind to such an extent that NRMA members are experiencing chronic difficulties and delays in clearing their merchandise through

Customs. Delays in Customs entry review, inspection, and clearance regularly run into days, and often stretch into weeks. The direct consequences are substantial costs to NRMA members for storage charges, transportation charges, and Customs overtime charges -- which some of our members tell us they pay as a matter of course because they have found it to be the only way to get their merchandise on a timely basis. Yet, the greatest damage which our members suffer as a consequence of Customs delays in entry processing is in the form of lost or reduced value of their merchandise, for in retailing, perhaps more than in any other economic activity, on-time delivery is essential and delayed goods lose value.

Reviewing Entry Papers. One bottleneck in the processing of commercial entries is the entry review process, which is particularly important when apparel is involved because the merchandise is governed by quotas and cannot be released until the import specialist team has reviewed and approved the entry papers. Our members report that entry papers usually take days to clear the Customs team, during which the goods cannot be delivered to their stores. One member reported an incident in which entry papers were sent to the wrong review team, yet were still held there for ten days. Believing that the entry papers had been lost, the importer filed a duplicate entry, which was cleared by the

correct team. When the original entry was reviewed and referred to the correct team, the importer received a rejection notice and was ordered to hold the goods! The matter was straightened out only after the Customs team realized that it had already approved the entry using the duplicate entry papers. Our information is that Customs import teams take, on average, five days to review and process apparel entry papers. Even worse, Customs has requested, without prior warning, samples of merchandise as long as 2 months after the entry, by which time the goods have likely been sold and samples discarded. NRMA suggests that 48 hours should be absolute limit on the amount of time that this clearance should take.

Physical Inspection. Once the import specialist team has cleared the entry papers, whether for apparel or non-apparel items, that does not necessarily mean that the importer can get his merchandise. Customs has steadily intensified its physical inspection of merchandise to verify descriptions, weights, quantities and markings -- and also to see if any drugs are being smuggled in. Merchandise inspection has become the single most difficult hurdle for our members to overcome. Customs in recent years has all but eliminated inspection of merchandise on importer's premises, and now requires that merchandise selected for inspection be

transported to Customs facilities -- at the importer's expense. Furthermore, Customs has created bottlenecks by increasingly centralizing its inspections; when centralized inspection was introduced in Chicago in 1986, for example, the number of inspection sites was reduced from 44 to four.

Shortage of Personnel. The problems with Customs inspection only begin with centralization. There is a nationwide shortage of inspectors, particularly in the West Coast ports. The delays caused by the unavailability of inspection teams to examine the increasing amount of merchandise selected for inspection can reach staggering proportions. The most egregious example reported to NRMA's Special Customs Task Force involved the textile inspection team in Los Angeles. At one point in time, the chief of that team was on jury duty, his assistant was ill, and another member of the team was on annual leave. The result -- no selected textile and apparel shipments were inspected, and therefore none were released, for eight days. With all due respect to the Customs Service, importers should not have to face this sort of obstacle in order to receive their goods.

Lost Paperwork. As if inspection delays were not bad enough, NRMA's members report that Customs inspection teams often fail to notify importers that their goods have been selected for inspection, or when they are to be

examined. We know that this is true in Los Angeles; in Chicago, in contrast, importers are notified of pending inspections. (In this connection, it bears mentioning that different ports have very different notions about how many entries to inspect. On average, Los Angeles inspects 10% of all textile imports; in Houston, about 90% are inspected, which makes for a one-to-two week delay in releases of these entries and a substantial container inspection charge that must be paid to Customs). Importers can easily lose track of their goods, and entry documents needed for release of the goods can, and have, disappeared. One of our members reports that Customs in New York has lost its entry release documents on three separate occasions in the past two months; the importer had to submit duplicate release papers and incurred additional transportation and storage charges and 7-10 day delays in the release of its goods.

We also know of an incident in Los Angeles where an inspection team held an entry for so long that the importer assumed that the papers were lost and filed a duplicate entry. This entry was cleared by the import specialist team and, somewhat surprisingly, released without inspection. Afterwards, the inspection team showed up to examine the goods under the original entry papers, and accused the

importer of disposing of the goods without proper authorization.

Another member told us of an incident where the company was instructed to move certain cargo to a centralized inspection site in the Port of Los Angeles to be inspected on a particular day. When the goods arrived at the inspection site, the importer discovered that the inspectors who were supposed to examine the goods were all at Los Angeles Airport examining other merchandise. The goods had to be returned to the importer's premise to await another inspection date -- all at the importer's expense.

Inexperienced Personnel. Complicating the shortage of both entry processing and inspection personnel has been their inexperience and lack of knowledge, which appears to come about mainly because Customs reassigns import specialists and inspectors to new commodities just as they have become qualified to deal in the old ones. These reassigned Customs officers gain their experience and education at the expense of the importer in terms of needless confusion and error. An example which a member reported to our Customs Task Force involved a Customs Special Investigation Agent who would automatically treat any apparel entry bearing an export visa from Nepal as an illegal

transshipment, because he had a preconceived (and erroneous) notion that there was no apparel production in Nepal.

More Automation. The increasing use of automation in the filing of entries and the selection of shipments for inspection has not alleviated problems. Indeed, Customs automation is part of the problem. For example, we understand that one reason why there is a shortage of commodity inspectors in Los Angeles is that many inspectors have been assigned to keyboard entry information into computer programs which select textile entries to be examined, when they should be in the field examining the merchandise themselves. In the textile quota area, Customs is still not entirely automated. Quota entry review and the determination of quota priority and status are still being done entirely on paper, causing critical delays when quota categories are about to embargo.

Binding Rulings. Customs now takes many months, and often over a year, to issue a binding ruling on the classification, valuation or marking treatment of prospective importations. Without these rulings in hand, importers must enter into transactions without any assurance of how Customs will treat the importations. And even when an importer receives a binding ruling in a timely fashion, Customs field officers sometimes ignore their obligation to abide by the

ruling. For example, one of our members went to the trouble and expense of seeking and receiving a binding ruling from Customs that a certain style of camisole was classifiable as underwear. Yet, when the first shipment reached the port, the import specialist classified the camisole as a shirt -- even though the binding ruling was attached to the entry documents.

Informal Guidance. Our members also report to us that Customs field officers are now very reluctant to advise importers even informally on basic questions of customs law. For example, many ports now restrict the hours during which importers may call or visit import specialists with questions, or even with problems in tracing or clearing entries. One member reported to our Customs Task Force that import specialists in Los Angeles appear to take their telephones off the hood during permitted calling hours, and so are effectively inaccessible. Another member reported that it received informal guidance from a member of an import team on a marking issue, which was overruled by the import specialist. The distressing aspect of the incident, however, was that the team member who gave the advice was admonished by the import specialist not for giving the wrong answer but for giving any guidance to the importer at all. That team

member now conscientiously avoids answering any questions from importers.

To summarize: The quality of Customs services to mainstream American importers is low and declining. NRMA believes that Congress can help bring about needed improvements in Customs commercial operations by taking the following actions:

1. Increase the number of Customs inspectors for commercial operations;

2. Improve training of Customs Service personnel, and by making sure that reassignment of Customs personnel be done on a staggered basis so that a consistent level of expertise and experience can be maintained;

3. In addition to more personnel, direct Customs to fully automate textile and apparel quota monitoring and to make certain that the textile program fully interfaces with other Customs Service computer programs;

4. Increase the ability of the Customs Service to provide retailers and importers with binding rulings, as well as informal advice and creating a system whereby Customs field officers are required to abide by these rulings; and

5. Consider developing a program to promote internal compliance with Customs laws through a program of Customs-approved internal compliance measures. These

measures could be enforced by random Customs audits. Importers and retailers that receive approval of their programs by Customs would benefit in terms of speed of entry for goods, acceptance of independent laboratory tests for fiber content or other factors, and a general presumption of the accuracy of documentation. A separation of the legal commerce and drug enforcement activities of Customs would, once again, be necessary to foster the cooperative spirit required for this program.

III. CUSTOMS MUST RESTORE ITS IMPORTER ADVISORY FUNCTIONS AND INVOLVE IMPORTERS IN THE FORMULATION OF NEW POLICIES

Apart from the sorry state of services to commercial imports, Customs has also been remiss by not providing importers with fair notice or opportunity to comment on new policies, practices and requirements. Instead, many of these new rules have been communicated directly to Customs field offices by telex, and affected importers find out about them only when their shipments are suddenly withheld from delivery. NRMA considers this "regulation by telex" to be a very serious deficiency in Customs operations.

A few of the more egregious examples of "regulations by telex" and similar cases in which Customs failed to seek the advice of importers before acting are illustrative:

(a) Declaration of Quota Charges. On May 12, 1986, Customs issued telex instructions to the field to immediately require that all imports of textile and apparel subject to quota include a declaration of the amount paid for quota "rights" (or licenses) and to whom the payment was made. Importers first found out about this requirement when several ports began to reject entry papers for lack of the declaration. Eventually, the telex instructions for these declarations were made available to the public, and importers readily detected numerous problems with them. On June 23, Customs clarified the quota charge declaration requirement (again, by telex) by providing sample declarations and by making it clear that entries were not to be held up if the declaration were missing. In the interim, however, millions of dollars worth of merchandise had been delayed in Customs clearance, and severe economic losses were inflicted on importers.

(b) "Live" Entry Of Samples. On January 9, 1986, Customs issued a telex directive (No. 3500-06) which provided that as of February 1, 1986: (a) all commercial shipments of textile and apparel would be subject to formal entry procedures, even including samples valued at less than $250 which at the time could use informal entry procedures; and (b) all commercial shipments of textiles and apparel from

quota countries, even if not subject to quota restraints, would be subject to "live" entry procedures (which require withholding the goods until the entry is accepted). The impetus for these new rules was general concern about evasion of quota controls. No advance notice of these rules was given, and affected importers had no chance to comment before they were announced. The difficulties in enforcing these rules, and especially their devastating effect on retailers who need timely delivery of merchandise and samples, were quickly and forcefully pointed out to Customs, and on February 28 a new directive was issued (again, by telex) to fix most of the problems.

(c) High-Low Shipments. In the Federal Register of March 6, 1986, Customs announced that, as of May 5, 1986, it would no longer accept textile and apparel entries if the entered value differed from the invoice price. This new rule was aimed at stopping so-called "high-low" shipments, in which a foreign shipper uses an artificially high invoice price to obtain free quota in the country of exportation, while the importer correctly declares the actual price paid or payable to Customs as dutiable value. Initially, however, Customs applied the rule to also reject "triangle shipments," which are legitimate entries of textile goods produced in one country that were sold in another country for export to the

United States. After this problem was pointed out to Customs, clarifying instructions were sent to the field, but in the interim numerous triangle shipments that should have passed through Customs without incident were embargoed, at substantial economic cost to importers. Indeed, one of NRMA's members recently had two of its triangle shipments rejected by Customs in the New York area as prohibited "high-low" entries, even after this problem had supposedly been resolved.

(d) Manufacturer's Code On Form 3461. Most recently, Customs issued telex instructions to the field to require importers to include on entry/release forms (Form 3461) a letter/number code to identify the manufacturer or vendor of the imported merchandise, the purpose being to use the Automated Commercial System to target merchandise for inspection. While identifying potential customs law violators is a fair objective and one which retailers support, the code developed by Customs requires importers to translate the manufacturer's name and address into a complex anagram. Customs never consulted with importers on the best way in which to gather data on foreign vendors, and the system that Customs devised on its own is confusing and could result in two manufacturers having the same number. Initially, Customs' instructions were that entry documents in

which the code was missing or incorrect were to be rejected; however, perhaps learning from earlier episodes, Customs later decided not to reject such entries, but instead not to process them for selective examination -- which suggests that they may be subjected to more intensive examination than otherwise would be called for. Moreover, we suspect that in the future Customs will begin to reject entries without the code.

The disturbing pattern which emerges from these incidents is that Customs sees nothing wrong with promulgating new rules and requirements in private, and letting importers in on the secret only after the fact. As a consequence, perfectly lawful and admissible shipments overnight become in danger of being held by Customs, and commercial arrangements and delivery schedules are severely disrupted. Also, these new requirements are not enforced uniformly in the ports, making the admissibility of the affected merchandise a matter of chance. Finally, deficiencies and oversights in these unilaterally imposed rules are remedied, if at all, only after the fact, causing expense and economic loss that could have been avoided by advance consultations with the importing community.

At the same time that Customs practices "regulations by telex," it has all but eliminated the most efficient

way to disseminate new rulings and decisions to importers -- publication in the Customs Bulletin. In 1979, Customs published 475 individual decisions in the Bulletin, and as late as 1981 published almost 250 rulings in this manner. By 1983-1984, however, the number of Customs Bulletin rulings had fallen off to barely over 100, and last year, 1986, Customs published a grand total of 29 decisions in the Customs Bulletin. To make matters worse, Customs used to publish in the Customs Bulletin lists of unpublished rulings with brief subject-matter descriptions, which interested importers could obtain for the asking. We do not believe that Customs published even one such list in the Bulletin during 1986.

The points to be made here are as follows. First, Customs must be made to realize that enhanced compliance with the customs laws by legitimate importers goes hand-in-hand with providing timely and accurate advice on what the customs laws require. Resurrection of the Customs Bulletin as a source of information and advice on customs issues would be very helpful, as would increased Customs resources devoted to responding to ruling requests and protest decisions. Second, Customs must understand that importers are eager to work with Customs to improve the administration of the customs laws, and that it is better to consult with importers about planned

new rules and requirements than to issue regulations by telex, which cause significant disruption and invariably have to be fixed after the fact. To this end, NRMA suggests that Customs establish an importers' advisory committee which it could use as a "sounding board" for new policies and a source of input from those who would be affected by changes in the rules of the game. Finally, at the least Customs must abandon "regulations by telex," and give importers notice and opportunity to comment on important new rules and requirements, out of concern for basic fairness and efficiency and regardless of whether it may be legally required.

STATEMENT OF DAVID ROSE, TRADE RELATIONS MANAGER, CUSTOMS LICENSING INTEL CORP. ON BEHALF OF THE AMERICAN ELECTRONICS ASSOCIATION, SANTA CLARA, CA

Mr. ROSE. Mr. Chairman, I am David Rose, Customs Licensing Affairs Manager for Intel Corporation of Santa Clara, California, and a member of the Customs Committee of the American Electronics Association, on whose behalf I am testifying today. AEA is the largest national trade organization for the manufacture of electronics products with over 2,800 member firms. Our association represents manufacturers of telecommunications equipment, semiconductors, computers, components, and software. The electronics industry, which employs 1.5 million people nationwide, is a vital segment of the American economy and relies heavily on international trade for its prosperity, trade which includes not only our highly significant contributions to the nation's export balance, but also on the importation of component parts.

The U.S. Customs Service plays a highly important role in our ability to import and export, and AEA is pleased to have this opportunity to express our views on Customs commercial operations. Today, I wish to address an alarming trend toward enforcement and lack of service within the Customs Service, particularly in the commercial sector.

This is a trend that cuts against Customs' traditional role as a facilitator of compliance of commerce and is highly detrimental to the trading community. For lack of time, I will very briefly identify problem areas and some solutions.

To begin with, import specialists are becoming less accessible. I know from personal experience that answering services are being used instead of direct responses; and if I attempt to visit an import specialist, I am greeted by a sign on the door that says you can't enter unless you make an appointment. And a lot of times my calls are not returned; so, how can I make an appointment, if I don't get a response by telephone?

The CHAIRMAN. The man in Brownsville tells me that you have to drive 200 miles up there to make an appointment and then drive back.

Mr. ROSE. Right. Yes. Equally important, the Office of Rulings and Regulations staff and budget has been so seriously reduced that it can no longer be responsive to public inquiries; and here, I am talking about the ability to publish rulings.

In addition, Harmonized System classes for imports have been dropped. Intel has seen unwarranted seizures of its merchandise—totally groundless—which Customs has later dropped, but only after a lot of headaches. We have also seen problems with regard to the user fee and what we think was at least some interim abuse by Customs on its implementation regarding the Schedule 8 exemptions.

As a crescendo, we see now a Customs proposal to redefine fraud by taking intent out of the definition.

Solutions. Increase import specialists and aides. Balance funding, vis-a-vis enforcement and commercial compliance and particularly with emphasis on the Office of Rulings and Regulations. Remove

inspector points for enforcement. We feel that is generally deleterious. And in general, put service back into the Customs Service.

The CHAIRMAN. Go ahead. Please summarize what you have left.

Mr. ROSE. All right. Overall, as I say, we want to return the Customs Service to its rightful status, that of an organization which performs a service to the importing community by assisting them and counseling them in the submission of a timely and accurate entry, and to an organization that performs a service to the United States by ensuring that all Customs' duties are collected with ten days of an importation, which is the due date, thereby helping to reduce our budget deficit.

Thank you very much for your attention.

[The prepared written statement of Mr. Rose follows:]

STATEMENT OF MR. DAVID ROSE
ON BEHALF OF THE
AMERICAN ELECTRONICS ASSOCIATION
BEFORE THE
SENATE FINANCE COMMITTEE
FEBRUARY 27, 1987

Mr. Chairman. I am David Rose, Customs/Licensing Affairs Manager for Intel Corporation of Santa Clara, California and a member of the Customs Committee of the American Electronics Association on whose behalf I am testifying today. Intel is a large manufacturer of semiconductors and computer systems, employing 18,000 people worldwide. Today I wish to address an alarming trend towards enforcement and lack of service within the U.S. Customs Service, a trend which is highly detrimental to the trading community.

AEA is the largest trade association of the electronics industry, with over 2,800 high tech electronics member firms. AS you know, electronics has become an increasingly important segment of our economy; our industry is now the largest manufacturing employer in the country. Our Association represents manufacturers of telecommunications equipment, semiconductor, computers, components, instruments, software and so forth.

ELECTRONICS AS A VITAL SECTOR

Electronics is a vital segment of the American Economy, and it is the toolmaker for other industries, providing the equipment needed to strengthen U.S. productivity, and the global

competitiveness of all sectors. A healthy electronics industry is key to U.S. leadership in the evolving information age.

Since 1978, the electronics industries have created over one million new jobs in the U.S. It is now the largest manufacturing sector in the economy, employing 2.5 million Americans. We in the industry are very proud of this contribution. We believe that it reflects the traditional preeminence of our technological innovation as well as the strong competitive posture of our industry.

Our industry relies on international trade for its prosperity, trade which includes not only our highly-significant contribution to the nation's export balance, but also on the importation of component parts. The U.S. Customs Service plays a highly important role in our ability to import and export and AEA is pleased to have this opportunity to express our views on Customs' commercial operations.

TRADITIONAL ROLE OF CUSTOMS

Much of what you will hear today will consist of anecdotes and statistics pertaining to decreased lack of service and increased enforcement within the Customs Service. In years gone by, Customs viewed itself as a facilitator of compliance. Recognizing that very few of the reputable firms engaged in commerce intentionally

seek to violate the law and, also acknowledging the incredible complexity of Customs law, the Service provided a body of resources to the public to assist them in complying. An import specialist knew products, manufacturers and importers and their trading practices in detail and was able to work with the trading community in securing observance of the regulations and in finding the most expeditious path possible for the lawful movement of goods into and out of the United States.

As another example, The Office of Regulations and Rulings was established not only as an enforcement resource but also as a communications medium. OR&R provided interpretations of complicated or ambiguous regulations and informed the public of the latest positions taken by the Office of Commercial Operations. Yet, above all, there was a spirit of cooperation evinced by the agency.

SHIFT IN RESOURCES

In assisting the vast majority of the importing community to achieve voluntary compliance, the Customs Service was able to focus its enforcement resources on the cheaters and frauds. Today this need is even greater - especially in light of Customs role in the war on drugs - yet Customs seems to be moving in entirely the opposite direction.

Year after year, Customs has come before this Congressional committee and asked for sharp cutbacks in its funding, aimed principally at its commercial operations. And, for equally as long, the Service has reallocated its manpower internally, again at the expense of the commercial sector. As a result, the cadre of import specialists has been reduced dramatically.

I know, from personal experience, that import specialists with whom I deal have become increasingly less accessible. If I telephone, I often reach an answering service yet seldom get a returned call and many times do not receive a return call. If I attempt to see an import specialist personally, I am greeted by a sign on the door, forbidding entry without an appointment.

Equally important, the Office of Regulations and Rulings staff and budget has been so seriously reduced that it can no longer be responsive to public inquiries. In 1985, 500 rulings from OR&R were published, while in 1986 this number tumbled to 29 rulings for the entire year. Other services have also dropped dramatically. For example, the Harmonized System is scheduled for implementation on January 1, 1988. AEA strongly supports this implementation and considers it to be of vital importance that Customs play a role in educating importers on this new system, particularly in translating the tariff numbers within the current tariff schedules to the new numbers in the HS. Customs now indicates that, due to diminished resources, classes

originally planned for importers will be dropped and limited to customshouse brokers alone.

EVIDENCE OF A MORE CONFRONTATIONAL ATTITUDE

The examples of reduced service are endless. However, more disturbing is the shift to a confrontational attitude towards the business community. More and more emphasis has been placed on making import/export harder for the company engaged in that business. The overhead costs of dealing with Customs have become very substantial and the cost of Customs actions on our business operations has exacted an even greater price.

My company, Intel, can provide a clear illustration of this. In December, 1986, two Intel shipments were seized in the Port of San Juan. One, involving roughly $100,000 in computer systems was to have cleared Customs under Item 800 as "American-goods returned," a duty-free category. Among the many components built into each of these systems was a small fan sub-assembly containing a part made in the Federal Republic of Germany. A Customs inspector, upon examining one of the systems, crouched down to look through the grill of the computer housing, and noticed a German origin mark on the fan subassembly. Ignoring the remainder of the system, the inspector then ordered the entire shipment of the computer systems seized, based on the grossly

mistaken assumption that all the systems were "foreign-made" and hence, entered fraudulently.

In fact, while the fan sub-assembly had been fabricated in the Federal Republic of Germany, each computer system had been manufactured by Intel in Puerto Rico in such a manner that the constituent components and subassembly of each system had been substantially transformed into a product of the United States.

At the same time, another shipment containing a printed circuit board assemblies (PCBAs) was seized in San Juan for an alleged item 800 violation stemming from a Customs inspectors belief that the PCBAs had been made in Japan. The problem emerged solely due to a failure to mask the foreign marking on a part known as a raw printed circuit board; in fact the PCBAs were manufactured in Puerto Rico. In both instances, extensive petitioning and continuous management of the problem were required for two months. In the interim, Customs informed the corporation in January that if <u>any</u> further Intel shipments were routed through the Port of San Juan, Customs would likely seize those shipments also. The harshness of the Customs reaction was matched by the two seizure notices: both claimed fraud and sought redress in excess of the value of the merchandise. After more than two months of petitioning and confrontation, Customs has agreed to drop both cases and release the merchandise, provided that we sign a "hold harmless" statement.

Another symptom of this confrontational attitude towards business is the position of Customs headquarters on enforcing Customs regulations. In the electronics area, a well-known example was Customs' position on the imposition of the .22% ad valorem user fee on item 807 merchandise. The language in Public Law 99-509 was clear: "The provision would not apply to articles classifiable under items in Section 8 of the Tariff Schedules" (Conference Report on H.R. 5300). Customs, however, unilaterally determined that only the Section 8 portion of the good should be exempt and instructed its field operations to collect the fee on the remaining value. Only intervention of the Treasury Department prevented the agency from an interpretation of its enforcement responsibilities that were patently erroneous.

Another example from the electronics industry has occurred in the reclassification of printed circuit board assemblies. For some time, the Customs Service agreed to the classification of the boards under 676.54, as "parts of computers". However, on January 17, 1986, boards classified under this section became duty-free. Coincidental with that day, Customs' import specialists ordered that these boards be reclassified to 676.15, data processing machines, where they continue to be subject to duty.

Notwithstanding their rationale that the existence of a microprocessor transforms the PCBAs into unfinished computers as opposed to computer parts - a ludicrous twisting of the regulations - Customs in doing so cut across uniform and established practices to achieve a preconceived result to justify continued collection of the duty. This matter is now being considered by Customs headquarters, and has been reviewed by the International Trade Commission and the U.S. Trade Representative's Office.

Recently, moreover, the Customs Service proposed to alter the regulations governing the definition of fraud by removing the requirement that a violation be deliberately done with intent to violate the laws of the U.S. AEA opposes this change on the grounds that it would violate the intent of Congress clearly stated in its 1978 amendment of Section 1592 which statutorily places the burden of establishing intent in order to prove fraud with the Customs Service. (See attached letter to Customs.)

CONCLUSION

As we indicated, these examples are really symptoms of a much bigger problem. It is a problem that you will hear echoed by many other sectors of the trade community. Electronics plays a very special role in this trade community, indeed in our entire

economy. We are the largest manufacturing employer in the United States today. Our growth and prosperity is in the national interest, much like Customs' responsibility to collect and protect the nation's revenues. It is counterproductive for Customs to assume such an adversarial posture when our interests are so interwoven.

Certainly we have no quarrel with enforcement of the Customs law. Yet enforcement should come after an effort to secure compliance. And, voluntary compliance is the least expensive use of both of our resources. One concrete step in this direction would be to see that the number of aides to import specialists is significantly increased. Such an increase would free up import specialists, who are consummate professionals in import procedures, from their current clerical burden and allow them to more effectively facilitate compliance. Mr. Chairman, we at AEA appreciate the help of this Committee in reestablishing within the Customs Service an emphasis on facilitation of compliance and commercial service. Our industry looks to this as a goal in our relationship with the Customs Service and we appreciate the Committee's help in achieving this goal.

Thank you for your kind attention.

American Electronics Association AEA

February 9, 1987

Regulations Control Branch
Room 2426
United States Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C.

Re: Proposed Customs Regulations Amendment
to "Fraud" Definition

The American Electronics Association, a non-profit trade association consisting of 2800 high-tech manufacturing companies, appreciates the opportunity to comment on the proposed revision to the definition of fraud as published in the December 10, 1986 Federal Register.

AEA opposes this proposed revision because it would A. allow conduct statutorily defined as constituting gross negligence to be redefined as conduct constituting fraud, and effectively lengthen the statute of limitations on such violations from five years from commission to five years from date of discovery. We believe that any such change is inconsistent with the intent of Congress clearly stated in the Customs Procedural Reform Act of 1978.

According to the Federal Register notice, the proposed definition of fraud would remove the requirement that a violation be deliberately done with intent to violate the laws of the U.S. In its 1978 amendment of Section 1592 however, Congress made a clear distinction between fraud and gross negligence and placed the burden of proving all elements of fraud (including intent) on the Customs Service.

This change would also have a related effect on the statute of limitations. Currently, gross negligence or negligence actions must be instituted within five years of the commission of the alleged violation. An action upon a fraudulent violation, on the other hand, need only be instituted within five years after the date of discovery of the alleged fraudulent offense. Accordingly, the proposed amendment would lengthen the statute of limitations on such violations from five years from commission to five years from the date of discovery.

For these reasons, AEA believes that the proposed definition of fraud involves changes which are not appropriately made through the regulatory process.

Sincerely,

Brian Wynne, Manager
International Trade Affairs

The CHAIRMAN. Perhaps some of that confrontational attitude comes from the fact that you don't have enough people to do the job, and the fellow is frustrated and feels he isn't doing a very good job. He is trying to spread himself too thin, and he is not available to the many people asking for appointments; and that compounds it.

Mr. ROSE. Yes.

The CHAIRMAN. Mr. Williams, is it in your testimony where you talked about a separation of the legal commerce and drug enforcement activities for Customs? Is that your statement?

Mr. WILLIAMS. Yes.

The CHAIRMAN. Is that realistic? Is that practical? Would not that lead to a lot more people? Don't the two at times spill over on each other?

Mr. WILLIAMS. One might think so, but we believe that if the Customs Service has sufficient people to handle commerce, and handles it in an expeditious way, that certainly there would be sufficient time to handle the drug enforcement as well.

The CHAIRMAN. But isn't some of that commence used to bring in drugs?

Mr. WILLIAMS. We hear that. Yes.

The CHAIRMAN. Well, you know that, don't you?

Mr. WILLIAMS. Sure.

The CHAIRMAN. All right. Now, Mr. Landry, with the great increase in air traffic, can you give me some kind of prediction as to what you think you would need in the number of inspectors to handle the growing number of passengers and cargo arriving at the United States in preclearance airports?

Mr. LANDRY. Yes, sir, Mr. Chairman. As I indicated in my statement, we feel that they are already 10 percent understaffed—the airport inspectors for the Customs Service; and with the seven percent growth that is expected annually, we have urged that this committee strive to get an increase of 17 percent in the Customs airport inspector staff, which would be an additional 120 airport inspectors. We think, without that, as I said, that the quid pro quo, that the airline passengers expected to receive in return for the $5 so-called user fee is just not being fulfilled. It is not being given. We think that the collection of those fees is unfair if they are not going to get the service when and where it is needed.

The CHAIRMAN. Would you briefly describe for the committee your U.S./Canada customs clearance proposal? Have you found some support for that proposal?

Are there other countries using such a system?

Mr. LANDRY. Yes, Mr. Chairman. As we indicated again, you have all along the border of Canada, between two great nations with common principles, common objectives, you have total duplication of Customs staff, all along the border and at the airports. We suggest that you could have a joint customs passenger clearance for the two nations; and in that way you could very substantially reduce the number of Customs inspectors required for each of the two nations. Both nations are struggling with enormous deficit problems, as we all appreciate; and with that system, passengers effectively could enter either of the two countries with a single

clearance, along with their accompanying goods, which would be for the most part duty-free.

It is done now within the Nordic countries.

The CHAIRMAN. You say it is done now?

Mr. LANDRY. It is done now among the Nordic countries: Sweden, Denmark, Finland, Norway, and so forth. It is being tested between France and Germany on the border; and if the Germans have success with it, they are planning to bring it in into effect with the entire family of Benelux countries. It makes great good sense for both countries, and we wish that it would be advanced. If it needs any further study, obviously we would welcome that.

We have had expressions of support from the Commissioner of Customs. We have had expressions of great interest from the Secretary of Commerce, from the U.S. Trade Representative, and the Department of State. We think it is an idea whose time has come.

The CHAIRMAN. That is for traffic going both ways?

Mr. LANDRY. Oh, yes, absolutely.

The CHAIRMAN. And you have common inspectors. Don't you have a great deal of difference in the procedures of the Mexican customs people and the U.S. Customs people?

Mr. LANDRY. I was speaking of the U.S./Canada border. Mr. Chairman, and as somebody who grew up in Upstate New York and went to graduate school up in Montreal——

The CHAIRMAN. And as someone who grew up on the Mexican border——

[Laughter.]

Mr. LANDRY. I am only speaking of U.S./Canada, Mr. Chairman.

The CHAIRMAN. All right. Senator Bradley?

Senator BRADLEY. Thank you very much, Mr. Chairman.

Mr. Williams, have you seen a dramatic increase in the amount of imports?

Mr. WILLIAMS. In our industry?

Senator BRADLEY. Right.

Mr. WILLIAMS. Yes, I think there has been.

Senator BRADLEY. In the last four years?

Mr. WILLIAMS. Probably so, yes.

Senator BRADLEY. Is that part of the problem?

Mr. WILLIAMS. Well, I think it could be part of the problem indeed, yes. As been alluded to earlier here at this hearing, there has been a dramatic increase in all types of imported goods, as we know; and so, I think that obviously there is a need for more inspectors to handle the increased workload.

Senator BRADLEY. Did you find a problem with the Customs Service four years ago? Or is it the result of this increased workload?

Mr. WILLIAMS. I think it is something that has been exacerbated over the last four years.

Senator BRADLEY. You know, one of the things that I am very interested in in your testimony relates to the automation point that you made. Let me read what you said—or I don't need to read it; I will paraphrase it.

Here we have all these great computers that are supposed to be checking, and you have people at the keyboard inputting data as to which shipment is going to be spot-checked, as opposed to people out there checking. Now, when the Customs Service has been in

here, we have made the point time and time and time again that you need more Customs inspectors.

Their answer is: No, we have this great computer operation. Can you give us some flavor of where you see the computer operation allowing things to fall through the cracks?

Mr. WILLIAMS. Right. I think certainly in the types of merchandise that we sell generally in retail stores, it is very important that inspectors be able to handle the merchandise and examine the merchandise; and it is very difficult for them to use a computer to do that particular function.

Senator BRADLEY. You mean you don't know if the box really has silk in it or not? Is that the point?

Mr. WILLIAMS. Exactly.

Senator BRADLEY. Unless you look in it, you don't know whether the box has silk in it or not?

Mr. WILLIAMS. Precisely.

Senator BRADLEY. Do you understand the computer program that they are using, how they decide what to check and what not to check?

Mr. WILLIAMS. I do not myself, personally.

Senator BRADLEY. But why wouldn't it work? Why wouldn't spot checks work?

Mr. WILLIAMS. I think that is what they are doing now, is it not? By summoning up on their screens—their computer screens—the particular merchandise that they wish to inspect, is it not then inspected manually?

Senator BRADLEY. Yes.

Mr. WILLIAMS. If it happens to be one of the items that they summon up on the computer screen?

Senator BRADLEY. Yes, yes, but your point is that you want less input into the computer; or you want the same input but more personnel for hands-on inspections?

Mr. WILLIAMS. Yes, sir.

Senator BRADLEY. So, you are basically saying more inspectors?

Mr. WILLIAMS. Yes, sir.

Senator BRADLEY. In addition to the computer operation?

Mr. WILLIAMS. Fine. [Laughter.]

Senator BRADLEY. Thank you.

The CHAIRMAN. Gentlemen, thank you very much. Your testimony has been quite helpful and interesting.

Our next witness will be Senator Chiles, the senior Senator from Florida, and we are very pleased to have you here. You can testify either here or there, whichever you prefer, Senator.

Senator CHILES. I think maybe I will testify at the table and appear more official.

The CHAIRMAN. All right.

STATEMENT OF HON. LAWTON CHILES, U.S. SENATOR FROM THE STATE OF FLORIDA

Senator CHILES. Mr. Chairman, I do appreciate the opportunity to appear before your committee today to comment on the U.S. Customs Service budget, which is of extreme importance to Florida as well as it is to Texas and the nation.

First, I want to compliment you and commend you, Mr. Chairman, for all your interest and your efforts in seeing that the Customs Service is sufficiently supported. The Service performs a similar task on your southwest land border and my southeast shore line. Now, the task has become more and more plentiful as the cargo becomes more and more plentiful and more and more dangerous. Similarity of port of entry responsibilities is one of my reasons for appearing here today; and Mr. Chairman, I know that you have just had some hearings in your State along the border. I compliment you for those hearings, and I know that you found exactly what I find in my State today: the tremendous importance of seeing that Customs has the manpower and the ability to carry out the mission that we have given them.

The U.S. must have control of its borders in order to effectively interdict the importation of illegal goods, terrorists, and illegal aliens into our country. We can't count on our natural borders—the Atlantic and the Gulf and the Rio Grande—to protect our citizens. And unless we have a solid border defense, then we are certainly vulnerable.

The dike must be coast to coast, border to border or it won't hold. We can't put a finger in a crack in the Florida wall and not expect an eruption in Texas. Texas might then become the conduit for 70 percent of the Nation's cocaine instead of Florida.

Recent history dictates that the wall must be strong.

When we strengthen our patrols along the southwest borders, then the entries shift back to the southeast. And when we emphasize sea interdiction, the dopers go the air routes. The dopers apply the same kind of adaptability to the methods for drug smuggling. When U.S. forces strengthen their resources against private planes and boats, then we witness more drugs on commercial carriers.

If we cut off airstrips, the dopers maneuver dropoffs to boats throughout the Bahamas. The smugglers' flexibility has to be matched by Customs. If the dopers shift their methods and their routes, then the U.S. forces must be able to adapt accordingly. The Customs Service's proposed budget for 1988 doesn't allow such support. Once again, the Service's request is short on personnel and interdiction support. The Service has recommended cutbacks of $39 million in personnel and $30 million in air interdiction.

Such cutbacks coupled with the proposed cuts in the Immigration and Naturalization Service would seriously weaken our border defenses. If the U.S. is willing to make a commitment to provide resources to fight the war on drugs, then we have to have the manpower to man those tools. Customs asked for more aerostats and condo radars, but how effective are they if the radar scopes are only being monitored part time? Customs asked for P–3 planes with sensors to see the dopers. How effective are they if they only have crews for three missions a week? Customs asked for more Blue Thunder fast boats. How effective are those powerful boats if they do not have enough crews for adequate patrols?

The drug industry does not employ a five-day work week. Our borders must be protected 24 hours a day, seven days a week against illegal entries. The smugglers will not respect off-hours and holidays.

Mr. Chairman, you know how very smart the smugglers are and the way they are able to determine our operations. They know immediately when we pull an aerostat down; and they just need that window, to go right through with their cargo.

Recent DEA figures revealed that 52,579 pounds of cocaine were seized last year in south Florida. Now, that is a tremendous job of seizures. That is up more than 1,200%—from 4,000 pounds seized some five years ago. And that sounds like a success story, but the reality proves something different. Today, there is twice as much cocaine in the State of Florida as there was a year ago, and the price is half as much. So, even though we are making these tremendous seizures, we still find that we are being deluged.

Does that mean that we abandon the fight? I hope that is not what the Administration is suggesting, but that certainly does not justify cutting back on our resources.

I know you cannot, along with me, support any such proposal. Last year, many of us in Congress—and I want to compliment you again and the role you played—banded together to promote and pass a comprehensive drug policy for the United States. The Antidrug Act is a five-pronged attack: education, treatment, interdiction, eradication, and enforcement. The proposed Customs cutback as well as those proposed by the Administration for drug education, treatment, and enforcement, would preempt any chance that the new drug policies might have to make an impact.

For the Administration to obstruct the potential of the new law, I think, is unconscionable. Mr. Chairman, I have told other agency representatives, and I hope that we can get the message to the Customs Service: They had better get ready to spend the money because we are going to make them do it. And I am confident that our colleagues will join us in supporting the levels of funding that we authorized in the Antidrug Abuse Act. We know the demand is there for a solid wall, and I just again want to thank you for your efforts in this regard.

The CHAIRMAN. Senator, I think your words are particularly significant. As Chairman of the Budget Committee you have been leading the fight to cut down on this deficit and the budget. And it is obvious that there are certain priorities, and it is very foolish to try and cut back there. On the one side, we have the hot rhetoric on drug intervention and the war against drugs; and then cutting the enforcement arm substantially really doesn't make any sense.

So, I am very pleased to have your testimony. I am quite aware of the fact that when they concentrate their limited force on Florida where those drug runners go, they come across our border in south Texas. And we see them come up from Colombia, and they use Mexico as a trampoline. They bounce it in there and take off again and land on some deserted road or on a ranch and transfer their drugs.

That is a constant fight that we are having, and it is increasing traffic that we are trying to deter. So, what we have seen in the proposal by the Administration really is counterproductive. I am sure the members of this committee are going to feel very strongly that we want to keep the Customs Service at an adequate force, for drugs and for commercial traffic, which is terribly important at this time when we are trying to turn this trade balance around.

I am very appreciative of the leadership you have shown on this fight against drugs, and this is just another evidence of it. Senator, I have no questions, other than the commendation of your testimony.

Senator CHILES. Thank you very much, Mr. Chairman.

The CHAIRMAN. Now, with that, that will be the conclusion of the hearing today.

[Whereupon, at 11:07 a.m., the hearing was adjourned.]

[By direction of the chairman the following communications were made a part of the hearing record:]

AIRPORT OPERATORS COUNCIL INTERNATIONAL

Testimony of

AIRPORT OPERATORS COUNCIL INTERNATIONAL

On

MANAGEMENT OF THE U.S. CUSTOMS SERVICE

Before the

Committee on Finance

United States Senate

February 25, 1987

International Headquarters: 1220 Nineteenth Street, N.W. Suite 800 Washington, D.C. 20036

Phone (202) 293-8500 Telex 440732 (ITS-UI) Telefax (202) 775-0359 Cable AOCIHQ

Mr. Chairman and members of the subcommittee, on behalf of our U.S. members, particularly the major international airports that this year will receive more than 27 million arriving international passengers, we appreciate this opportunity to express our views and concerns regarding the funding and management of the U.S. Customs Service.

The Airport Operators Council International (AOCI) is the association of governmental bodies that own and operate the principal airports served by scheduled airlines in the United States and around the world. Our member airports annually enplane more than 90% of the total domestic and virtually all of the U.S. international scheduled airline passenger and cargo traffic. Worldwide, our international member airports enplane two-thirds of all airline passengers on six continents.

To many foreign travelers, their first impression of the United States is the extensive time spent in line at their airport of entry, during processing by the Federal Inspection Services (F.I.S.). How these visitors are treated during this F.I.S. process leaves a lasting impression on their view of the United States, and of the particular city where they arrive. It also influences their willingness to return to the U.S., and thus has an important effect on tourism to the U.S. Returning U.S. citizens and residents often view the F.I.S. process as a necessary but burdensome period, specially designed to test their patience after a long and wearying international flight.

Airport operators and the communities they serve have a strong interest in attracting foreign visitors, for the economic benefits which they bring to the community, and to the country. These airports therefore also have a strong interest in assuring that the arrival of their visitors is as pleasant as possible. We should all understand that foreign tourism is a huge industry that supports many American jobs and is a plus in this country's trade balance.

While airport operators provide, at their own cost, all of the space and facilities in which federal inspection services screen arriving passengers and baggage, airport authorities can neither directly influence federal operating procedures nor assure adequate inspection manpower to avoid processing delay. Both these vital factors (procedures and staffing) are governed by federal decisions, largely shaped by out-dated federal regulations and constant budgetary constraints.

The result is lengthy delays for passengers, cargo and aircraft. These delays are more than irritating, they are extremely costly. Missed flight connections caused by lengthy international passenger processing create a huge cost in wasted time for air travelers who would otherwise be employing their talents productively. Clearance delays for cargo render time sensitive products such as perishable fresh produce, newspapers, courier packages, medical supplies, and just-in-time inventory items either worthless or severely value reduced.

AOCI has long advocated that federal inspection services (Customs, Immigration, Agriculture and Public Health) should, in close cooperation with U.S. international airlines and the operators of our nation's international airports, adopt all practicable measures to facilitate international air travel and prevent unnecessary delays to aircraft, passengers, baggage and cargo. While federal regulations must be enforced, they should be sensible regulations, appropriate to 1988, and be carried out in a manner that imposes the least possible inconvenience on air travelers and the movement of cargo.

For example, a "red/green" system, in use successfully in many European countries, needs to be applied throughout the United States. This would solve the problems associated with the outdated and inappropriate inspection procedures currently followed. Adequate staffing under a new red/green system, however, would have to be ensured by a mandate that all international arriving passengers be cleared through all of the federal inspection services within 45 minutes of their arrival in the United States.

The standard of clearing all passengers within 45 minutes is not an arbitrary figure. This amount represents the maximum amount of time that passengers have to clear federal inspection if the internationally accepted 1-1/2 hour connecting time at such large international airports as Kennedy, Miami, Los Angeles and others is to be feasible. The costs of having to delay connecting flights grows when one considers the cost of aircraft equipment which lies idle while passengers are being processed. The facilities and

staffing to inspect international arriving corporate and general aviation at reliever airports is also needed, so that the operational pressures on major international airports arising out of catering for these types of aviation are reduced. Both corporate and general aviation are important to our international competitiveness and they deserve better service than they are receiving today.

Only when we have a red/green system and a 45 minute or less clearance standard can we be reasonably satisfied that U.S. citizens and foreigners alike are receiving a 'service' from federal inspection. Only then can we have the confidence that we are satisfactorily protecting our borders and promoting America as the welcoming place it is.

Sadly, that is not the case today. The budgetary resources and staffing devoted to Customs inspection at U.S. international airports today is, on the whole, totally inadequate to facilitate passenger processing. The ten major international gateways, which handle 80 percent of all international arrivals in the U.S., often experience serious delays and congestion as a direct result of inadequate Customs staffing, particularly during peak periods. Processing delays of 1-1/2 to 2 hours occur at many airports far too often.

Last year, only 700 full-time-equivalent Customs inspectors were assigned to U.S. international airports to process 25 million arriving international passengers. It is no wonder that those limited number of Customs inspectors cannot process planeloads of arriving passengers in a timely fashion.

AOCI is greatly concerned that the administration's budget for fiscal year 1988 will compound already unacceptable delays in federal inspection processing. The administration has proposed reducing Customs personnel from the current 15,177 full-time-equivalent total positions to 13,169. We do not know how such a 2,000-person reduction would affect current staffing at U.S. international airports, but we are alarmed that such cuts would be proposed at a time when traffic projections indicate that 29 million international arriving passengers will use our airports during the upcoming fiscal year, a 16 percent increase.

Federal Inspection Service User Fees

We are also perplexed as to why such cutbacks should be proposed, when Customs user fees recently enacted by Congress will raise far more revenues than are needed to fully cover the costs of not only maintaining the current level of customs staffing, but also of substantially increasing that staffing level.

AOCI believes, in principle, that user fees are an appropriate means to recover federal government costs for specific services. However, user fees or charges that are raised for a specific purpose from the "users" of that service should bear direct relation to the cost of providing that service. Furthermore, such fees should be dedicated to the provision and improvement of that service. We strongly oppose the charade of instituting user fees for Customs, Immigration or any other federal service, for the purpose of generating revenues to finance unrelated federal programs, or reducing the general federal budget deficit.

We are also concerned about the apparent proliferation of federal user fees. First Customs, then Immigration, and now proposals to extend the fees beyond the time-frame set by Congress. We also hear of plans to impose new charges to finance agricultural inspections and to finance even the U.S. Travel and Tourism Administration!

It is the responsibility of Congress to exert its oversight powers to ensure that the integrity of the user fee system is maintained. There must be strong accountability of the collection, administration and expenditure of user fees to ensure they are devoted to the purpose for which they were collected, and are not misused to become simply another government taxing mechanism.

Before the Customs and Immigration user fees are extended, or new user charges are imposed, we believe that it is incumbent upon Congress and this Committee to bring some rational thought to bear on the whole issue of user fee applications.

We also believe that airport operators should receive some reimbursement for the costs which they have incurred in providing the often extensive, and expensive, facilities required for carrying out federal inspection. Airports have invested great sums of money to provide adequate F.I.S. facilities -- from sterile corridors to baggage claim areas -- in accordance with the specifications of the federal inspection services.

As an example, Miami International Airport has already made capital investments of more than $58 million in passenger F.I.S. facilities. Another $42 million has been designated for further

construction and design. They have also invested more than $15 million in cargo F.I.S. facilities, including more than $10 million in the first computerized cargo clearance system in the U.S., linked directly to the Customs headquarters computer in Franconia, VA. Operational staff support and maintenance of F.I.S. facilities also costs Miami more than $6 million annually, with an additional $2 million a year in the cost of operating the cargo clearance computer system.

Before the federal government diverts user fee monies into the general fund, airport operators are entitled to some reimbursement for their costs which are directly related to federal inspection service requirements.

Airport operators and airlines for many years have been running out of excuses for inadequate international arriving passenger processing, and now that user fees are being collected, no excuses exist for either airport operators, airlines or the federal government to hide behind.

Customs Cargo Computerization

Several airport authorities are now developing large, complex and expensive computer systems for the automated processing of air cargo. Miami and New York are specific examples of major international airports, whose large cargo-computer systems will be in full operation during the next twelve months. Development of computerized cargo systems is also being investigated at Atlanta, Baltimore, Dallas, Houston and Los Angeles. Computerized cargo

processing will streamline Customs import and export procedures, eliminate redundant paperwork, and greatly expedite the inspection and clearance of air cargo. These systems will not only benefit of U.S. customs but the whole U.S. trade community as well. Such systems have been in operation at major European and Asian airports for many years.

These large U.S. cargo-clearance computer systems must have some commonality, in order to ensure standard interfaces between all of the users of the systems (the airlines, brokers, forwarders and F.I.S. agencies). AOCI is concerned that the independent development of various airport systems will be costly, and result in duplication of effort. The AOCI Board of Directors has therefore directed the establishment of an Automated Cargo System Committee, to review the individual airport programs that have been developed and determine ways of sharing more information. The committee will also make recommendations for the development of an appropriate total, integrated, U.S. computerized cargo clearance system. We will be happy to share our progress with this Committee once our airport coordination program is in place.

AOCI is also represented on the International Airport Associations Coordinating Council (AACC) and International Air Transport Association (IATA) Automated Cargo Processing Committee. This AACC-IATA committee has been working for the past two years to coordinate development and standardization, on a worldwide basis, of major international airport Computerized Cargo Clearance Systems. We will also keep this Committee updated on our work in this respect.

These major cargo-clearance computer programs represent a tremendous investment by the major airports (more than $20 million for each of the first two systems at Miami and New York, over a four-year development and operation period). These complex and expensive systems will, however, only bring the projected benefits to U.S. Customs, airports, airlines and international trade communities, if the complete U.S. Customs Automated Commercial System (ACS) is ready to exchange electronic data with the airport cargo computers. The Administration must be directed to provide Customs with the necessary budget to enable Customs to complete the "automated-air-manifest" and the "in-bond" programs within the next twelve months.

The Customs ACS program is the basis of future manpower savings in Customs, the basis for all future movement toward "paperless entry" of general release cargo, and the basis of sensible steps toward statistical sampling. The ACS program is also the basis for all future improvements in Customs service levels (e.g. 24-hour service, electronic interface with airlines and airports in the new international standards for harmonized Customs codes, and harmonized international trade documents, etc.). Successful completion of the Customs ACS program could revolutionize U.S. international trade, and greatly improve the cost-benefit ratio of the U.S. Customs Service.

This Committee should also ensure that, along with necessary funds to expedite the completion of ACS, the Customs Service itself take action to change progressively many of its older regulations to reflect a modern "paperless" Electronic Data

Interchange (EDI) environment. Customs could initiate this EDI program immediately, by approving "pilot programs", in coordination with cooperating computerized airlines and major computerized international airports.

Customs should also be directed to press forward with a twelve-month operational test of the two alternative new X-ray scanning systems, which now show great promise in detecting contraband (drugs, etc.) hidden within containerized and palletized cargo (which now represents approximately 80 percent of all air cargo). If we can interdict narcotics, while still keeping the cargo moving in a cost-effective manner, our whole country will gain.

These new X-ray devices also show great promise in the better control of export cargo, with their ability to detect "high-tech" computers and weapons in containerized or palletized export cargo. Both automated cargo clearance using the ACS system of U.S. Customs in conjunction with cargo clearance computers in ports of entry, and the new cargo X-ray devices can and should work together to achieve our common goal -- the protection of our borders from narcotics and other illegal items and the efficient facilitation of air cargo movement.

In conclusion, international passenger traffic and international cargo traffic at our major airports continues to show sustained growth. Our airports are working hard to provide for this growth by investing in large new facilities for the federal inspection agencies

and in complex cargo computers. The international air travelers and the international trade community are also now paying hundreds of millions of dollars annually to fund the Federal Inspection Services. The airports, the passengers and the business community should now be entitled to receive the investment benefits.

Mr. Chairman, AOCI believes the Customs Service budget for the forthcoming year should be substantially increased, in three specific areas: 1) more inspectors to clear passengers and cargo efficiently; 2) the completion of the ACS program, to clear air cargo more efficiently; and 3) a twelve-month test of X-ray scanning devices, to interdict contraband in both import and export containerized cargo.

Finally, should U.S. Customs implement the red/green clearance system used throughout Europe, the current inspector workforce and any future adjustments would have to be determined consistent with ther opporitnuties provided by implementing such new clearance systems nationwide.

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C·T·F·A
The Cosmetic, Toiletry and Fragrance Association

E. Edward Kavanaugh
President

March 12, 1987

The Honorable Lloyd Bentsen
Chairman, Senate Finance Committee
703 Hart Senate Office Building
2nd and C Streets, N.E.
Washington, DC 20510

Dear Senator Bentsen:

On behalf of the Cosmetic, Toiletry and Fragrance Association (CTFA) */ I would like to commend you and your Senate Finance Committee for holding hearings on the budgetary problems facing the U.S. Customs Service. For the reasons discussed below, we support increased funding for the important programs administered by their agency.

The cosmetic and fragrance industry is being hard-hit by the importation of counterfeit and other illegal goods. Our member companies are reporting millions of dollars in lost sales, and as you know, the inevitable corollary to economic loss is lost jobs. In this time of high unemployment and general economic problems, the industry can ill afford such difficulties.

The industry has received reports of counterfeit colognes, shampoos, deodorants, and even soap. Some of the counterfeit cosmetics such as shampoos, may constitute health risks to consumers because of unsafe ingredients, bacterial contamination, or other problems.

Moreover, cosmetic and fragrance counterfeiting is increasing. An International Trade Commission study of cosmetic counterfeiting showed no counterfeit cosmetic products in the U.S. during 1980-82, even though significant amounts of counterfeiting occurred overseas. In contrast, companies responding to CTFA's blinded 1986 questionnaire about counterfeit and illegally imported cosmetic products reported a vastly different picture -- over $5 million in

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*/ CTFA is the national trade association representing the cosmetic, toiletry and fragrance industry. Founded in 1894, CTFA has an active membership of more than 230 companies that manufacture or distribute approximately 90 percent of the finished cosmetic products marketed in the United States. In addition, CTFA includes more than 210 associate member companies from related industries, such as manufacturers of cosmetic raw materials and packaging materials.

lost 1985 U.S. sales from counterfeit products that were known to have been sold in the U.S. And that number is extraordinarily conservative. If we were to extrapolate to the loss in sales from "hidden" counterfeit cosmetics that we think are in the country (because we know they came in, but can't find them after entry) or that came in, but were interdicted prior to sale, the 1985 number would be at least an order of magnitude higher.

And the numbers keep increasing. The CTFA survey showed 1985 figures that are significantly (40%) higher than 1984 figures. And projections for 1986 based on the first four months' data indicated that lost U.S. sales from "known" and "sold" counterfeits could reach $15-20 million. Similarly, we expect the actual volume of those "hidden" counterfeits to increase proportionately unless we can stop them -- and to stop them we need an adequately funded U.S. Customs Service.

Our members are also experiencing problems with the importation of another kind of illegal goods, that is, certain of their products that are intended for distribution abroad and that do not comply with relevant United States laws and regulations governing labeling. Some illegally imported products also contain ingredients such as chlorofluorocarbon propellants that are not legal in the United States.

Last year, the Cosmetic, Toiletry and Fragrance Association (CTFA) launched a major new offensive to combat the industry's growing problem with counterfeit and illegally imported goods. As its central activity, CTFA is working closely with the U.S. Customs Service. We know that most of the counterfeit sold in this country is manufactured abroad and imported. There are three places to stop a counterfeit -- before it gets out of the country of origin, at the port of entry, or after it is imported into the U.S. We can think of this flow as two funnels -- with the neck being the port of entry. And that is why we have concentrated this past year on Customs -- the spot where the flow is most easily controlled.

The Association is conducting Anticounterfeiting Workshops in important Customs ports around the country, to show Customs officials how to distinguish between counterfeit and genuine products. At each workshop, a CTFA representative presents a short overview of the industry's problems with counterfeiting and the importation of illegal goods. After this brief presentation, representatives of individual companies discuss the firm's products and specific problems and are available for questions.

As an adjunct to our Customs Workshops, CTFA is developing a video presentation on counterfeit cosmetics to be distributed to Customs offices and to be used as a training film and refresher course for Customs personnel. The video will not detail specific differences between the genuine and counterfeit product, but will discuss the existence of counterfeit cosmetics in general terms.

We believe that the video will be especially valuable for new personnel or those undergoing some additional training on the general problem. We have also prepared a full color Product Information Book to be distributed throughout Customs offices. The book gives detailed descriptions of how to tell the real from the fake.

The cooperation and support that CTFA has received from the Customs Service has been truly extraordinary. Customs officials from every port that CTFA has visited have called various member companies with valuable information. Without the help of the Customs Service, our Program would be far less effective. The cosmetics industry applauds the Service and each dedicated Customs official. We want to do everything possible to support their efforts and to ensure that the Customs Service is adequately funded and supported.

We are committed to continuing our cooperative working relationship with the Customs Service, and we appreciate this opportunity to submit our views to the Committee.

Cordially,

Ed Kavanaugh

E. Edward Kavanaugh
President

International Air Transport Association

PROF. DR. GÜNTER O. ESER
DIRECTOR GENERAL

MONTREAL / GENEVA

9th March 1987

The Honorable Lloyd Bentsen
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510
U.S.A.

Dear Mr. Chairman,

On February 26, your Committee held hearings on the management of the U.S. Customs Service. On behalf of the 151 international airline members of the International Air Transport Association (IATA) from all areas of the world, I am submitting the following statement for the record on this matter.

We are deeply concerned over the proposed cutback in U.S. Customs Service personnel in the budget proposal for FY 1988. This proposal calls into serious question whether the user fees which the Congress enacted last year on air travel are being used for the purposes that the Congress mandated. As you know, IATA then opposed, and still opposes, user fees intended to fund government activities which benefit the public in general rather than air travelers as such. However, the impact of these user fees was lessened when the Congress provided that, in return for payment of the $5 Customs user fee, airline passengers would receive fully adequate Customs services whenever needed. The Consolidated Omnibus Budget Reconciliation Act of 1986 also provided that "all funds in the Customs User Fee Account shall only be available, to the extent provided for in appropriations Acts, for the salaries and expenses of the United States Customs Services incurred in conducting commercial operations". The proposed cutback in Customs personnel is directly contrary to these clear expressions of Congressional intent.

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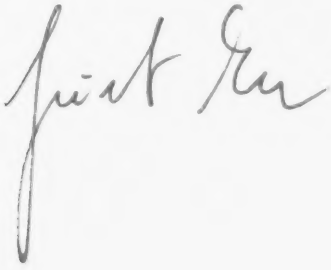
Moreover, the proposed Customs budget undermines the only redeeming feature of user fees, namely, that the funds collected will be used to maintain and improve services to travelers and shippers. Without this feature, I am certain that opposition to user fees will only grow not only from the airline industry and the public but from foreign governments as well. The latter may be tempted to impose similarly-structured fees or taxes in retaliation.

I might also point out that, because the proposed substantial cutback in Customs personnel will significantly impair the ability of the U.S. Customs Service to clear incoming passengers and cargo without excessive and costly delays, it could impact adversely on U.S. imports and on the willingness of foreign travelers to include the United States in their travels, both of which are important elements in the U.S. balance of payments.

We urge that the Senate Committee on Finance take steps to restore funding for a fully adequate level of U.S. Customs Service personnel.

If we can provide any other information, please let me know.

Yours sincerely,



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TEXAS CITY

March 6, 1987

The Honorable Lloyd Bentsen, Chairman
Unites States Senate Committee on Finance
U. S. Senate
Washington, D. C.

Re: U. S. Customs Service

Dear Senator Bentsen:

The West Gulf Maritime Association is a trade association composed of seventy one (71) steamship owners, steamship operators, agents, stevedores and terminal operators, domiciled in and conducting their business operations in the ports from Lake Charles, La. through Brownsville, Texas. Approximately 60% to 70% of the ocean borne international commerce in this range of ports is handled by our membership.

We wish to take this opportunity to file written comments with the United States Senate Committee on Finance in connection with the hearings the Committee held on the operation of the U. S. Customs Service, the impact the proposed budget cuts and reduction in manpower will have on the international trading community, and customs ability to provide reasonable and expected service and dispatch.

Every few years or so there seems to be a change in directions in the policies and priorites of what is important. For a number of years the policy was to add manpower, with the result that every problem or new program was an incentive to create more work. Then, starting maybe in the late 70's, the mood seemed to change to a "be lean-work smarter" concept where new programs were introduced and promoted which made it possible for the Customs Service to reduce their manpower considerably and/or transfer manpower from processing and routine operations into enforcement.

The last few years, many of the programs implemented in the name of efficiency and cost reductions are either being dismantled, or the old procedures they replaced are being dusted off and reinstituted, thereby recreating paper work and make work practices leaving totally insufficint resources to complete the task. In so doing, Customs is shifting the burden to the importing/exporting community. The promise of less paper work and fewer operational restrictions was indeed the caveat held out to the community for their cooperation with the U. S. Customs Service in implementing the "smarter" and manpower conserving programs in the first place.

In addition, it often appears that the innovation and leadership that is exercised from the top is slowed, and maybe even stopped or reversed by the time it filters through the middle layer of management and into the trenches.

This reversal of earlier progress results in an increased work load on the inspectors that are left and will impede commercial operations in timely and efficient execution of responsibilities.

We understand the need for national policy, however, it seems obvious to us that different problems and circumstances are found around the country due to geographics, type of trade, and many other reasons. Most, if not all Texas ports and airports have shown a substantial increase in Customs related activities over the past ten (10) years. During this time staffing has been reduced, and is now comparably much lower than other major trade areas on the East Coast or even on the West Coast. The Port of Houston has activities spread out over fifty (50) miles of territory along the winding Houston Ship Channel. The State of Texas is the leading state in the nation in international waterborne tonnage. We fail to see the validity in a comparison of Houston and Chicago, or as the Senator will remember, an earlier attempt to compare Houston and Dallas with Sweetgrass, Montana. Such comparisons are ludicrous, the circumstances are different.

The new policy of Centralized Examination Stations (CES) is a good example. Some ports already have procedures that can successfully claim to have CES in place. In other ports, such as Houston, the layout is different and after a certain measure of centralization you cannot go any further without shifting the burden of proper manning over to the private sector in form of additional trucking charges and handling. The final result in Houston will depend on the amount of discretion and good judgment exercised by Customs locally.

If the Customs Service had been able to maintain and continue the earlier trend, present manning could have been sufficient, maybe even excessive. That, however, has not been the case. New programs are labor intensive and more manpower is definitely needed.

Because of what has transpired over the last few years, we believe it could be devastating to have an additional cut in personnel, or have a decrease in the overall budget. The burden is already on the international community in the form of regular fees, vessel user fees and importers user fees. We have frankly reached the point where we not only expect but demand that the U. S. Customs Service be capable of, and available to do the job that is required of them without additional delays or costs. Recently rumors have surfaced about additional staff reduction in Houston. At this time

any such action would be extremely detrimental to Texas and our effort to revitalize our ports and our economy.

We further believe that the Customs Service and the trade community are both suffering from the personnel policies as presently being administered. It is a constant relocation and temporary assignments of District Directors and Regional Commissioners. People in these positions are transferred frequently, and when in office sent out on temporary assignments at a pace which disrupts the long term efforts to establish good working relationships and sound policies and procedures. The Customs Service has a large investment in their top executives both in training, and education, and the constant movement of the executive talent deprives the public of the benefit of this investment. Last week a letter was written by the Acting Regional Commissioner to the Acting District Director, with copy to an Acting Assistant Commissioner in Washington. All of this "acting" makes it impossible for the Customs Service to get their "act" together.

This disruptive practice is in our opinion a contributing factor to the moral problem we believe exist in that it is an indication of indecision and lack of direction.

The Houston District has had six (6) District Directors, Acting or otherwise since 1980. There have been six (6) or seven (7) Regional Commissioners during this same period.

We applaud the Customs Service's efforts to automate and to attempt to eliminate unnecessary paper work. We do believe, however, that their effort in this regard has been seriously hampered by the constant change and disruption of personnel referred to above and within departments. As a result, there have been many changes in policies, reversals in policy, or unanswered questions, leaving the industry feeling we are shooting at a moving target. During this attempt to automate, many of the previously curtailed old procedures are being reinstated as already referred to above.

We realize that this letter speaks in generalities, however, our objective is to bring to your attention the policies that in our opinion create the problems. These policies are as follows:

1) the vicissitude displayed by the U. S. Customs Service in developing new procedures only to later again introduce time consuming and work generating practices, and
2) the disruptive personnel policy of transfers after short periods (often only one year or less) and taking the executive leadership away on assignments prevents continuity.

We appreciate this opportunity to express our concern. This letter is not intended as a condemnation of the Houston District or the Southwest Region, but is rather our observation as an interested party at close range of what is going on. We wish to emphasize that our aim is to improve the working relationship between the U. S. Customs Service and the public to the benefit of both, and this letter is written in that spirit.

WEST GULF MARITIME ASSOCIATION

Ted Thorjussen
President

TT/bp

cc: WGMA Board of Directors
WGMA Membership

KURT ORBAN
Chairman

ROBERT LARSON
President

INTERSTEEL INC.

2/25/87

Mr. William J. Wilkins
Staff Director and Chief Counsel
United States Senate Committee on Finance
Room SD 205
Dirksen Senate Office Building
Washington D.C. 20510

Dear Mr. Wilkins:

Re: Budget of Customs Service

I sincerely hope that the Committee will see fit to provide for adequate budgeting for the U.S. Customs Service, one of the few Government operations that make rather than spend money for the Government.

The recently enacted "user`s fee", even though of doubtful legality under GATT, is in itself sufficient to more than pay for the cost of operations of the Customs Service, and of course the duties collected by Customs are a multiple of what it costs to operate it - as indeed they should be.

As exporters and importers, we worry about any reduction of Customs staff, which must inevitably lead to costly delays in clearing both imports and exports. These costs ultimately are passed on to the consumer with respect to imports and cause the U.S. to lose export competitiveness, just the opposite of what we should be aiming for.

Also, an inadequately staffed Customs Service would be much less effective in pursuing the war against imports of narcotics and other similarly undesirable things.

Even present staffing is less than adequate, with often inordinate delays occurring in clearing imports in such ports as Los Angeles.

Adequate staffing for Customs is most important for the health of our economy.

Sincerely

Kurt Orban

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March 12, 1987

William J. Wilkins
Staff Director and Chief Counsel
U. S. Senate Committee on Finance
Room SD 205
Dirksen Senate Office Building
Washington, D. C. 20510

Re: Statement of JFK Airport Customs Brokers Association, Inc. Pertaining to Proposed U.S. Customs Service Budget FY 1988

Dear Mr. Wilkins:

These comments are made on behalf of our client, the JFK Airport Customs Brokers Association, Inc., which is comprised of more than 170 licensed customs broker companies located at and around JFK Airport. The customs brokers located at Kennedy Airport handle in excess of 90% of all imported commercial merchandise passing through the busiest airport in the world. The members of our client are responsible for properly interpreting those laws enforced by the U.S. Customs Service relating to the entry of imported merchandise into the commerce of the United States. In addition to those laws and regulations relating specifically to U.S. Customs, the customs brokers are also responsible for having a knowledge of those laws enforced by the U.S. Customs Service on behalf of many other Federal agencies, among which are the Food & Drug Administration, the U.S. Department of Fish and Wildlife, the U.S. Department of Agriculture, the U.S. Department of Defense and the U.S. Department of State. The customs broker is a licensed entity required to abide by the strict regulations

promulgated and enforced by the U.S. Customs Service. The customs broker is an integral and essential part of the import process. The broker is heavily relied on by the U.S. Customs Service to insure that proper documentation is submitted to U.S. Customs, enabling imported merchandise to enter the commerce of the United States.

Unfortunately, our client sees the efficiency and effectiveness of the U.S. Customs Service in a not so positive posture. Our client questions whether monies allocated to the U.S. Customs Service over the past number of years has been properly spent by U.S. Customs, or whether it has been squandered away because of U.S. Customs failure to adequately analyize its instituting new practices and procedures prior to actual implementation. Many complaints have been made to members of the U.S. Congress in this regard. Such complaints have resulted in the announcement by the Honorable Dan Rostenkowski (D., Ill.), Chairman, Committee on Ways and Means, U.S. House of Representatives, in a press release dated January 27, 1987 that the Subcommittee on Oversight should review certain administrative practices relating to the U.S. Customs Service. Among those mentioned is the "consistency of the U.S. Customs Service in applying its rulings and determinations on the treatment of imports"; one of the reasons cited by our members as a cause for Customs' inefficiency is Customs lack of timely promulgation of regulations interpreting vague statutory language. The U.S. Customs Service has yet to promulgate regulations interpreting 19 USC 1484 relating to the "entry of merchandise and the right to make entry". The U.S. Customs Service's current interpretation disregards commercial reality and allows, contrary to statutory language and intent, non-owners and non-purchasers of merchandise to appoint a customs broker to make entry of imported merchandise. This appointment contravenes the, many times, expressed desire of the actual owner or purchaser who desires either to prepare the entry documentation himself or to appoint another broker. Not only does this interfere with the established contractual relationship between importers and their customs brokers, but it opens the door for false and incomplete entry documentation, since the entity preparing the documentation has no relationship to the owner or purchaser and, thus, no access to accurate and complete information. This situation results in the deprivation of duties owed the Government and allows for the proliferation of contraband, contrary to the avowed intend of the U.S. Customs Service. Customs'

interpretation, allowing a nominal consignee designated on a "master waybill" as opposed to the actual consignee as designated on the underlying document (i.e. house waybill) also inhibits Customs from carrying out the mandates of 19 USC 1484 (a)(1)(D), which requires the establishment of procedures "which insure the accuracy and timeliness of import statistics, particularly statistics relevant to the classification and valuation of imports." Procedures currently in place which allow a non-interested party to hire a broker to make entry are contrary to the specific dictates to the aforementioned section of law.

Commercial reality mandates that U.S. Customs accept the house waybill or its equivalent in determining who the "consignee" is for purposes of making entry and appointing a customs broker. Until such change in Customs' thinking occurs, "couriers and express delivery services" will be allowed to, either intentionally or unintentionally, controvert the intent of the Customs' laws with the unfortunate result, perhaps being, more instances of drugs or other contraband "innocently entering the country". It happened with Pan Am's trusted employees, it will also happen with the trusted employees of others who have close relationships with U.S. Customs officials in "hub cities".

Where there is no strict accountability, as there is with owners or purchasers and their appointed customs brokers, there is little incentive to produce correct and accurate entry documents. Any budget proposal should mandate expenditure of an appropriate amount for the immediate promulgation of regulations requiring that Customs' acknowledge that the house waybill or its equivalent be the designated document, when consolidated shipments are involved, to determine the identity of the consignee of imported merchandise.

Another statutory provision enacted in 1983, which has yet to be interpreted by regulatory language is the "Convention on Cultural Property", 19 USC 2601 et sec. Although this provision has less general application than the previously cited statutory provisions, there is still a pressing need for agency interpretation of the statutory language so that importers and their customs brokers are properly advised as to what cultural property can be legitimately imported into the United. States. Currenty, each importer must rely on the whims of the inconsistent interpretation of the statutory language existent at each port of entry. Such a situation is intolerable, contrary to the "uniformity" often espoused by Customs and an unintended impediment to valid importations. We could continue to list other situations where the lack of Customs uniformity has created doubt and inconsistency in the enforcement of Customs' laws, but since that factor is so widely known within the industry, it is almost entitled to "judicial notice"; this even in light of the fact that Customs has a "Customs Information Exchange" (CIE) which is available to all Customs officials nationwide and designed to promote consistency amoung the ports. Further, with Customs professing to be in the modern age with regard to automation, its failure to properly use the CIE brings into question whether the vast amounts spent by Customs on automation were put to good use. Customs has never been asked the hard question; Give us a breakdown over the last ten years, a line item breakdown, as to how much was spent on automation and a detailed analysis of how much was accomplished; How many programs were started and abolished; How many programs were started, which, in actuality, increased the cost to Customs or to the importing public. Customs should not be permitted to respond with generalized answers since the alleged positive result of automation is currently not obvious to the importing public.

Customs has floundered in its attempt to automate. It has implemented procedures in various ports, including New York, which are dependent upon automation, prior to automation being instituted within the port. These new procedures could have waited until the automation was in place. Instead, the changes of procedures which worked, have created additional delays and additional costs to the importing public with no upgrading of U.S. Customs efficiency. Onerecent example of such a change is the implementation of the Centralized Examination Facility at Kennedy Airport. Customs had promised faster processing of containerized cargo and more efficient operation. The theory behind the centralized facility and its efficient operation was, at least in part, based on the availability of automation and telecommunication capability among all involved. Instead, the centralized examination has resulted in delays in processing and highly increased costs for the importing public to such an extent that many importers are rethinking whether consolidation is economically feasible and whether, in fact, non-consolidated parcels should be shipped directly with the airlines, crowding their already crowded facilities. What is even more disturbing is that Customs has recognized the delays and increased costs which have accompanied this new system, but has insisted on continuing to bring in new containerized freight stations on a monthly basis. You would think that good management would dictate a hold on adding new freight to a facility that is not working as promised.

Customs', in creating the Centralized Examination Facility, has rid itself of a traditional function, that of being in charge of examining cargo and has, in fact, subcontracted out much of that function. The importers have no choice but to use that private facility. As a result, the increased cost of the Customs' mandate should be borne by the U.S. Customs Service and paid for by the "user fees" collected by the U.S. Customs Service. This traditional examination function is one that is

required and, thus, was a contemplated Customs' expense at the time of the imposition of "user fees" in 1986. Any appropriation by Congress should include language mandating that user fees be allocated to pay for these new centralized examination facilities and, in fact, any new prodecure mandated by Customs which relieves Customs from one of its traditional functions should be paid for out of "user fees". It has been suggested that because of, in many instances, U.S. Customs' officials lack of experience and knowledge in classification and value that that function be turned over to the customs brokers and allow the broker to examine and release merchandise.

Commissioner Von Raab has consistently stated that automation has reduced cost, reduced the need for manpower and increased the efficiency of the U.S. Customs Service. However, the proof of this has never adequately been shown to the importing public; all we see as as result of Customs' procedures is increased costs to private industry. As an example, and perhaps the most vivid horror story is the cost to an importer when importing "quota merchandise", particularly textiles and wearing apparel at JFK. The U.S. Customs service is well aware that storage charges are assessed by all airlines, and by most, after the "free time" of 48-hours after the arrival of the merchandise has expired. Since Customs is supposed to be a "Service", you might assume that Customs would process and release "quota merchandise" within that two day period. You may be surprised to learn, however, that an excess of ninety percent of imported wearing apparel and textile quota merchandise is subject to storage charges. This is a charge borne by the consumer in the United States, and results from the inefficient operation of the U.S. Customs Service created by a political situation brought about bydomestic pressure. These storage charges create an inexcusable non-tariff barrier. If private enterprise operated in a similar fashion to U.S. Customs, all of our industries would be crying bankruptcy. For an agency that generates more than $15.00 in revenue for every $1.00 spent, it is inexcusable that it cannot process merchandise and entries quickly enough so that additional storage

charges can be avoided. Any appropriation should mandate a change in these procedures, and should penalize Customs and require return of monies appropriated if its failure to expedite the release of merchandise and processing of entries continues.

Perhaps, Customs' inefficient operation results from its non-accountability to the public. It is a fact that if Customs officials act in a negligent or grossly negligent manner with regard to the processing and handling of imported merchandise, the Customs Service is not responsible for the payment of damages to the person or industry aggrieved. The law was clearly stated in the case of Kosak v. United States, 104 S.Ct. 1519 (1984). Thus, in situations where both parties (Customs and the importer) agree that there was damage to property or property was illegally held by Customs resulting in commercial loss, Customs is not responsible and not accountable for its improper activities. This situation may be one reason for Customs inefficient operations and procedures. Perhaps, we should heed the suggestion made by the Court where it states that

> "petitioner and some commentators argue that Section 2680(c) should not be construed in a fashion that denies an effectual remedy to many person whose property is damaged through the tortious conduct of Customs officials. That contention has force, but it is properly addressed to Congress, not to this Court."

We are hereby addressing the situation to Congress, both in its particular effect and its general effect and implore this august body to be more circumspect when appropriating funds to the U.S. Customs Service. We suggest, respectfully that Customs be held much more highly accountable because of its vast impact on industry in the United States and its ability to bankrupt and close down businesses and because of its great power and leverage with regard to imported merchandise.

Also, Congress must take a look at the mandate which Customs was given, as the primary agency responsible for the interception of drugs entering into the United States. Our Association and all of its members are repulsed by the drug problem existing within the United States and our Association members have an enviable record in cooperating with law enforcement in stopping drugs from entering the United States and, as far back as the 70's, we have testified before Congressional Committees regarding the poracity of our borders with regard to drugs, however, Customs has not listened to the suggestions ofthese experts. Questions must be asked; What is the experience of the leaders of U.S. Customs making drug policy? What training do they have and are those individuals up to the task? Review the backgrounds and abilities of the special agents assigned by the U.S. Customs Service to interdict drugs; what professional training do they have? In that regard, is the expenditure of money to support these individuals as our frontline defense in the fight against drug importation justified. To insert, for a moment, my own background, which was, prior to my involvement with Customs and Trade Law, as a prosecutor, it is my opinion, concurred in by others with similar experience, that officials of the U.S. Customs Service do not have the professional background and experience to lead the fight

against drugs and that effort should be better left to other law enforcement agents with a more varied and experienced background in the task.

These same hard questions must be asked of the U.S. Customs Service, since U.S. Customs is not asking of itself, either in its efforts to control drugs or to control the importation of commercial merchandise into the United States. We respectfully ask that you consider all of these comments prior to appropriating funds to the U.S. Customs Service for fiscal 1988.

Very truly yours,

SOLLER, SINGER & HORN

CRS/baw
271

Carl R. Soller

cc Senator Alfonse M. D'Amato
Senator Daniel P. Moynihan
Hon. Floyd Flake
Hon. Norman F. Lent
Hon. Thomas J. Downey
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March 24, 1987

William J. Wilkins, Esq.
Staff Director and Chief Counsel
Committee on Finance
United States Senate
Dirksen Senate Office Building
Room SD-205
Washington, D.C. 20510

Re: Budget - U.S. Customs Service

Dear Mr. Wilkins:

On behalf of the Manufacturing Jewelers & Silversmiths of America, Inc. ("MJSA"), a nationwide trade association of some 2,400 members, may I submit comments on the legislation authorizing appropriations for the U.S. Customs Service.

It is urged that these comments be included in the record even though filed after the filing date of March 12, 1987. The basis for this request is the newly known facts as to the violation of country-of-origin-marking rules occurring among shipments of jewelry reported by Commissioner of Customs William von Raab on March 16, 1987. (Copy of Department of Treasury News attached).

While MJSA has been concerned for many years as to country-of-origin-marking violations, the magnitude of the problem was not known until the March 16, 1987 Release. The Customs Service undertook a special study during 1986 to determine the extent to which imports are improperly marked with the country of origin. The Release stated that during the last quarterly phase of the special examinations, from October 1 through December 31, Customs officers found that the highest percentages of violations of country-of-origin-marking rules occurred among shipments of jewelry and bicycles; 3,347 examinations of jewelry imports showed a violation rate of 21.1 percent.

It is the understanding of MJSA that the Customs Service has earmarked $20 million of its fiscal 1987 budget for enforcement of antifraud laws. As Commissioner von Raab stated, country-of-origin-marking violations are an important aspect of commercial fraud.

Under the circumstances, MJSA urges that the Committee on Finance provide a budget that will provide the Customs Service the resources it needs to not only process commercial goods with all due speed, but also to enforce the laws as to country-of-origin-marking.

Sincerely yours,

Lewe B. Martin

Lewe B. Martin
Special Trade Counsel, MJSA

LBM:jmg
Enclosure
cc: Senator John H. Chafee
Dr. Matthew A. Runci

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Department of the TREASURY NEWS
U.S. CUSTOMS SERVICE WASH, D.C. 20229 (202)-566-5286

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CUSTOMS FINDS MANY VIOLATIONS AMONG IMPORTED PRODUCTS

U.S. Commissioner of Customs William von Raab said today that a Customs Service study during 1986 revealed that nearly 17 percent of merchandise imported into the United States is improperly marked as to county of origin. U.S. Import laws require that an imported product be clearly marked with its country of origin.

The Customs study, which was based on the results of more than 15,200 special cargo examinations, was carried out in quarterly phases throughout calendar 1986. During the first phase of the study, which ran from January 1 through March 31, 1986, Customs officers in ports around the country performed 5,600 examinations and found an average of 14 percent of the imported merchandise to be not legally marked with the country of origin. During the same time, Customs officers in New York found violations as high as 90 percent in a series of 1,500 examinations. Before making their study, Customs officers had estimated that only two to three percent of imported goods may be not legally marked with the country of origin.

Only certain commodities were selected for these special examinations: a different group each quarter. During the last quarterly phase, from October 1 through December 31, Customs officers found that the highest percentages of violation of country-of-origin-marking rules occurred among shipments of jewelry and bicycles: 3,347 examinations of jewelry imports showed a violation rate of 21.1 percent: 1,115 examinations of imported bicycles revealed violations in 26.7 percent of shipments.

Also during the last phase, Customs officers in San Francisco levied over $500,000 in duties, penalties, and damages for errors uncovered during their examinations under the country-of-origin-marking program.

In commenting on the country-of-origin-marking study, Commissioner von Raab said, "During 1986 we discovered the extent of this problem, and we are taking steps to see that we get control over it. This is just another aspect of commercial fraud, an area of law enforcement that is a major program at the Customs Service."

(more)

Customs is continuing the country-of-origin-marking program in 1987, under which in the first two months they have already seized merchandise valued at over $1,600,000.

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For further information call Customs Office of Public Affairs at (202)566-5286.